UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:
WC-15J

APR 2 3 2015

CERTIFIED MAIL 7014 2870 0001 9580 7597
RETURN RECEIPT REQUESTED

Ex. 6 (Personal Privacy)
Ex. 6 (Personal Privacy), Inc.
Ex. 6 (Personal Privacy)

Subject: Administrative Order on Consent for Compliance Pursuant to 33 U.S.C. §§ 1318 and 1319(a)
Docket No. V-W-15-AO-07

Dear Ex. 6 (Personal Privacy):

Enclosed you will find the final Administrative Order on Consent (Agreement) to mitigate potential violations of Section 301 of the Clean Water Act (CWA), 33 U.S.C. § 1311, that the U.S. Environmental Protection Agency discovered at the Ex. 6 (Personal Privacy) facility in Fort Recovery, Ohio.

As you know, on April 2, 2014 and April 4, 2014, the EPA inspected your facility. At the time of the inspection, EPA identified potential CWA violations. During the negotiations for the Agreement, you agreed to install interim measures to immediately eliminate unauthorized discharges and to install measures to permanently capture all manure and process wastewater from operations at your facility.

Protecting water quality is a high priority of EPA. Pollutants such as excessive nutrients and pathogens discharged to waterways from animal feeding operations contribute to poor water quality and impairment of uses of those waterways.

If you have any questions or concerns, please contact Joan Rogers, at (312) 886-2785 or rogers.joan@epa.gov, or your legal counsel may contact Nicole Wood-Chi, Associate Regional Counsel, at (312) 886-0664 or wood.nicole@epa.gov.

Sincerely,

Tinka G. Hyde
Director, Water Division

Enclosure

cc: Paul Novak, EPA R5 Cleveland Office
Hunter Young, Ohio Environmental Protection Agency
Cathy Alexander, Ohio Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	PROCEEDING UNDER
Ex. 6 (Personal Privacy) [redacted] Inc.	)	SECTIONS 308(a) and 309(a)
Ex. 6 (Personal Privacy) [redacted]	)	OF THE CLEAN WATER ACT
	)	
	)	
RESPONDENT	)	DOCKET NO.: V-W-15-AO-07
	)	

CONSENT ORDER FOR COMPLIANCE

I. STATUTORY AUTHORITY

1. The following Administrative Consent Order for Compliance (Order) is issued to and accepted by Ex. 6 (Personal Privacy), Inc. (Respondent) under the authority of the Administrator of the U.S. Environmental Protection Agency provided by and 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 5, who has redelegated this authority to the Director of the Water Division, U.S. Environmental Protection Agency, Region 5.

2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants to the waters of the United States by any person except in compliance with, among other provisions, Section 402 of the CWA, 33 U.S.C. § 1342.

3. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), states that whenever the Administrator finds a person in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), or a condition in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, she may issue an order requiring that person to comply with the provisions of the CWA and the requirements of the permit.

4. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), and EPA regulations at 40 Code of Federal Regulations (C.F.R.) Part 122, authorize the Administrator to require the owner or operator of any point source to establish and maintain records, make reports, install, use and maintain monitoring equipment, sample effluent and provide any other information she may reasonably require to carry out the objectives of the CWA.

5. Section 402 of the CWA, 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (NPDES) by which the Administrator may issue permits for the discharge of pollutants to the waters of the United States subject to certain conditions.

6. EPA has authorized the State of Ohio to issue NPDES permits under Section 402(b) of the CWA, 33 U.S.C § 1342(b). The Ohio Environmental Protection Agency (OEPA) is

the NPDES permitting authority for the State of Ohio. EPA retains the authority to enforce the CWA in Ohio.

II. DEFINITIONS

7. All terms used but not otherwise defined in this Order shall have the meaning provided in the CWA and EPA regulations promulgated under the CWA.

8. "Animal feeding operation" or "AFO" means, among other things, "a lot or facility where . . . (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period and, (ii) Crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility." *See* 40 C.F.R. § 122.23(b)(1).

9. "Concentrated animal feeding operation" or "CAFO" means an AFO that is defined as, among other things, a Medium CAFO. Two or more AFOs under common ownership are considered to be a single AFO for the purpose of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. *See* 40 C.F.R. § 122.23(b)(2).

10. "Discharge" or "Discharge of a pollutant" means, among other things, any addition of any pollutant to navigable waters from any point source. *See* Sections 502(12), (16) of the CWA, 33 U.S.C. §§ 1362(12), (16); 40 C.F.R. § 122.2.

11. "Land application area" means land under the control of the Respondent, whether that land is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied. *See* 40 C.F.R. § 122.23(b)(3).

12. "Manure" means manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal. *See* 40 C.F.R. § 122.23(b)(5).

13. "Medium CAFO" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following ranges: 200 to 699 mature dairy cows, whether milked or dry; 300 to 999 veal calves; 300 to 999 cattle other than mature dairy cows or veal calves; 750 to 2,499 swine each weighing 55 pounds or more; or 3,000 to 9,999 swine each weighing less than 55 pounds; 150 to 499 horses; 3,000 to 9,999 sheep or lambs; 16,500 to 54,999 turkeys; 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system; 37,500 to 124,999 chickens (other than laying hens) if the AFO uses other than a liquid manure handling system; 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or 1,500 to 4,999 ducks if the AFO uses a liquid manure handling system, and either one of the following conditions is met: (A) pollutants are discharged from the production area into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or (B) pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through

the production area or otherwise come into direct contact with the animals confined in the operation. *See* 40 C.F.R. §§ 122.23(b)(6)(i)(A) and 40 C.F.R. § 122.23(b)(6)(ii)(A) and (B).

14. "Navigable waters" means the waters of the United States. Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

15. "Nutrient management plan" means the plan described in 40 C.F.R. § 122.42(e)(1).

16. "Overflow" means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or stormwater can be contained by the structure.

17. "Person" means, among other things, an individual, association, partnership, or corporation. Section 502(5) of the CWA, 33 U.S.C. § 1362(5); 40 C.F.R. § 122.2.

18. The term "point source" means, among other things, any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

19. The term "pollutant" is defined at Section 502(6) of the CWA, 33 U.S.C. § 1362(6), as "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water."

20. "Process wastewater" means water directly or indirectly used in the operation of the animal feeding operation for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding. *See* 40 C.F.R. § 122.23(b)(7).

21. "Production area" means that part of the site that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment area. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stock piles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate

uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities. *See* 40 C.F.R. § 122.23(b)(8).

22. "Site" means the facility or facilities owned or operated by Respondent located at or about Ex. 6 (Personal Privacy), including but not limited to the Tromp Lot, the Silage Pad, the land application area, the production area, and adjacent land used in connection with the land application area and/or production area.

23. "Traditional Navigable Water" means those waters "[a]ll waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide." 33 C.F.R. § 328.3(a)(1); 40 C.F.R. § 230.3(s)(1).

24. "Waters of the United States" means, in accordance with 40 C.F.R. § 122.2, among other things:

a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce;

b. All interstate waters;

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), …the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters;

d. All impoundments of waters otherwise defined as waters of the United States under this definition; and

e. Tributaries of waters identified in subparagraphs (a) through (d) of this definition.

III. FINDINGS

25. Respondent is a person who owns or operates a dairy cow facility located at the Site.

26. The Site is an animal feeding operation because:

a. the Site includes lots or facilities where animals have been, are or will be stabled or confined and fed or maintained for a total of 45 calendar days or more in any 12 month period, within the meaning of 40 C.F.R. § 122.23(b)(1)(i); and

b. crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of those lots or facilities, within the meaning of 40 C.F.R. § 122.23(b)(1)(ii).

27. The Site is a medium CAFO because the site confines 475 mature dairy cows and pollutants were identified discharging into waters of the United States through culverts.

28. In April 2011, the Site was designated as a CAFO by OEPA.

29. On April 2, 2014 and April 4, 2014 personnel from EPA conducted an inspection at the Site (the Inspection).

30. During the Inspection, EPA personnel identified the following sources of discharge to a perennial unnamed stream:

    a. Manure and process wastewater from the collection lane, which is a manure storage area, along the west edge of the Tromp Lot, which is an animal confinement area, flowed into a ditch that runs east along the north side of the Tromp Lot. The ditch then flowed into an intermittent portion of Hickory Branch. The intermittent portion of Hickory Branch flowed into a receiver pipe and then flowed 3.7 miles to the perennial portion of Hickory Branch. The perennial portion of Hickory Branch flowed 1.1 miles until it flowed into the Wabash River.

    b. Process wastewater from mortalities on a compost pile, which is a manure storage area, flowed into the ditch on the north side of the Tromp Lot. The ditch then flowed into an intermittent portion of Hickory Branch. The intermittent portion of Hickory Branch flowed into a receiver pipe and then flowed 3.7 miles to the perennial portion of Hickory Branch. The perennial portion of Hickory Branch flowed 1.1 miles until it flowed into the Wabash River.

31. During the Inspection, EPA personnel identified the following area of concern that pollutants could flow to a perennial unnamed stream:

    a. Process wastewater from silage leachate was not completely collected from the Silage Pad area. The process wastewater could flow to the east and to an intermittent portion of Hickory Branch.

32. The Wabash River is a Traditional Navigable Water.

33. The Site is a point source.

34. Respondent discharges wastewater from the Site into Hickory Branch which flows to the Wabash River.

35. The discharges described above are each a discharge of a pollutant(s).

36. As of April 4, 2014, Respondent did not have an NPDES permit for the discharge of pollutants from the Site.

37. As a CAFO which discharges, the Site is subject to the NPDES permitting requirements of Section 402 of the CWA, 33 U.S.C. § 1342, and 40 C.F.R. Part 122.

38. Respondent's discharges constitute unauthorized discharges of pollutants from a point source to waters of the United States.

IV. FINDINGS OF VIOLATION

39. The facts stated in Paragraphs 24 through 38 above are herein incorporated.

40. By discharging pollutants from the Site without an NPDES permit, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

V. CONSENT AGREEMENT

41. The EPA and Respondent hereby agree as follows:

    a. Solely for the purposes of this Order, Respondent admits the jurisdictional allegations set forth herein.

    b. Respondent neither admits nor denies the factual allegations set forth in Section III.

42. Solely for purposes of this Order, Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth herein.

43. So as to resolve the disputes between the EPA and the Respondent in this matter, Respondent consents to the issuance of this Order. Respondent agrees that it will complete the compliance activities on or before the dates set forth within or established pursuant to this Order.

44. Respondent and EPA agree to bear their own costs and attorneys' fees incurred as a result of this Order.

45. Nothing contained in this Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

46. Agency Approvals: EPA may approve, approve with modifications, or disapprove deliverables. If EPA disapproves a deliverable, Respondent shall have 30 days to modify and resubmit the deliverable. If EPA disapproves the resubmitted deliverable, it may be deemed by EPA a violation of this Order and subject to penalties. Upon receipt of EPA's written approval or approval with modification, Respondent shall commence work and implement any approved plan or approved portion of plan in accordance with the schedule and provisions contained therein. Any EPA approved report, plan, specification, or schedule shall be deemed incorporated into this Order. Prior to this

written approval, no plan, report, specifications or schedule shall be construed as approved and final for purposes of this Order. Oral advice, suggestions, or comments given by EPA representatives will not constitute an official approval, nor shall any oral approval or oral assurance of approval be considered binding. Respondent may request and EPA may, in its sole discretion, grant extensions of time to resubmit deliverables.

VI. ORDER

Based on the Findings of Violation set forth above, and pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and1319(a)(3), Respondent is hereby ORDERED to take the following actions to eliminate its violations of the CWA:

A. Interim Measures

47. Upon the effective date of this Order, there shall be no unpermitted discharges from the Site.

48. Upon the effective date of this Order, Respondent shall implement interim measures to prevent any unpermitted discharge from the Site.

49. Within 120 calendar days of this Order, Respondent shall have an NRCS 590-compliant nutrient management plan developed for the Site. Until the new nutrient management plan is developed, Respondent will continue to follow the guidelines and schedules in the outdated nutrient management plan.

B. Permanent Measures

50. Respondent will have until June 30, 2016 to complete permanent measures to prevent discharges from:

    a. The collection lane along the west edge of the Tromp Lot into a ditch that runs east along the north side of the Tromp Lot. The ditch then flowed into an intermittent portion of Hickory Branch.

    b. A compost pile which flowed into the ditch on the north side of the Tromp Lot. The ditch then flowed into an intermittent portion of Hickory Branch.

C. Discharge Minimization and Notification

51. Within thirty (30) calendar days of the effective date of this Order, Respondent shall develop an Emergency Response Plan and shall post at the Site, procedures to effectively identify and respond to any spill or discharge to waters of the United States, and shall ensure that all employees are aware of, and follow, those procedures. The posted procedures shall contain detailed response instructions which shall include, but not be limited to, the names of officials to be notified, state and federal agencies to be notified, local or downstream public water supply and public health entities to be notified,

appropriate phone numbers, addresses, safety precautions, and immediate actions to abate the occurrence.

52. This Order does not authorize Respondent to discharge pollutants to waters of the United States at or from the Site, and any such discharges not otherwise authorized by law are subject to enforcement. If for any reason Respondent discharges pollutants to waters of the United States, Respondent must visually monitor the discharge and immediately notify the EPA by contacting Joan Rogers by telephone at 312-886-2785, and email at rogers.joan@epa.gov. Respondent must also immediately notify the OEPA at 1-800-282-9378. In addition, Respondent must document the following information and submit a written report containing such information to EPA and OEPA within five (5) calendar days of becoming aware of the discharge:

a. the cause of the discharge, including an estimate of the discharge volume, an estimate of the flow rate if the discharge is continuing, and any analytical data;

b. a description of the area receiving the discharge (*i.e.*, field, ditch, stream, or other description);

c. the specific location of the discharge;

d. the period of discharge, including exact begin and end dates and times, and if not corrected, the anticipated time the discharge is expected to continue;

e. steps taken or to be taken to respond to, contain, and mitigate the discharge;

f. corrective action taken to prevent recurrences of the discharge; and

g. apparent impacts to health or the environment resulting from the discharge, including, but not limited to, threats to surface water supplies, water supply wells, recreational areas, and water quality.

D. Record Retention and Reporting

53. Recordkeeping: Upon the effective date of this Order, Respondent shall maintain at the Site and shall make available to EPA and OEPA personnel upon request copies of records created pursuant to this Order. Such records include:

a. a copy of the nutrient management plan;

b. all records required by the nutrient management plan;

c. reports of the depth of the manure and process wastewater in storage structures as indicated by the capacity depth markers;

d. records documenting the current design of any storage structures, including total design volume, and approximate number of calendar days of storage capacity;

e. records of the date, time, and estimated volume of any overflow;

f. records documenting transfers of manure, litter, or process wastewater to other persons;

g. the criteria and procedures for dewatering of storage structures;

h. records of materials removed from storage structures; and

i. inspection records.

54. Interim Measures: Within thirty (30) calendar days after the effective date of this Order, Respondent shall submit to EPA and OEPA the following documentation concerning the interim measures implemented pursuant to Section VI.A. of this Order:

a. documentation (*e.g.,* as-built diagrams, photographs, affidavits, etc.) showing that Respondent completed installation of the interim measures;

b. an accounting of the costs incurred by Respondent to install, implement, and maintain the interim measures; and

c. an updated NRCS 590-compliant nutrient management plan.

55. Annual Reports: Respondent shall submit an annual report to EPA and OEPA not later than March 15 of each calendar year following the effective date of this Order. In each annual report, Respondent shall include the following information for the previous calendar year prior to submittal of that annual report:

a. the maximum number and type of animals confined, whether in open confinement or housed under roof;

b. the estimated amount of total manure, litter, and process wastewater generated at the Site in the previous calendar year;

c. the estimated amount of total manure, litter, and process wastewater transferred to another person from the Site in the previous calendar year (in tons or gallons);

d. the total number of acres for land application covered by the nutrient management plan;

e. the total number of acres under the control of Respondent that were used for land application of manure, litter, and process wastewater in the previous calendar year;

f. a summary of all manure, litter, and process wastewater discharges from the production area that occurred in the previous calendar year, including the date, time, and approximate volume of such discharges; and

g. a statement indicating whether the current version of the nutrient management plan was developed or approved by a certified nutrient management planner, the date that the plan was completed and the name of the certified nutrient management planner.

VII. SUBMITTALS

56. All submittals and copied correspondence concerning this Order must be sent to the following addresses:

U.S. EPA Environmental Protection Agency
Attn: Joan Rogers
Water Enforcement and Compliance Assurance Branch
Water Division, WC-15J
77 West Jackson Boulevard
Chicago, Illinois 60604

57. Any documents or notifications required by this Order to be submitted to OEPA shall be submitted by Respondent to the following address:

Ohio Environmental Protection Agency
Attn: Hunter Young
50 W. Town St., Suite 700
P.O. Box 1049
Columbus, Ohio 43216

58. All submittals made pursuant to this Order shall be returned under an authorized signature containing the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information, including the possibility of fines and imprisonment for knowing violations.

59. If the signatory finds at any time after submittal of information that any portion of the submittal is false or incorrect, the signatory shall notify EPA immediately. Knowing

submittal of false information to EPA in response to this Order may subject Respondent to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), and 18 U.S.C. §§ 1001 and 1341.

Confidentiality of Submissions

60. You may not withhold information because you claim it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, you may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order, as provided in 40 C.F.R. § 2.302(a)(2). The regulations provide that a person may assert a business confidentiality claim covering part or all of the information furnished to EPA when that person submits the information. The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). Effluent data (as defined in 40 C.F.R. § 2.302(a)(2)) and information in NPDES permit applications is not entitled to confidential treatment. 40 C.F.R. § 122.7. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B.

61. If you do not assert a claim of business confidentiality when you submit the information, EPA may make the information available to the public without further notice.

62. EPA may use any information submitted in response to this Order in support of an administrative, civil or criminal action against Respondent.

VIII. EFFECTIVE DATE

63. This Order is effective on the date of signature by the Director of the Water Division

IX. GENERAL PROVISIONS

64. This Order is not a permit under the CWA, and does not waive or modify Respondent's ongoing obligation and responsibility to ascertain and comply with all other applicable federal, state or local laws, regulations, ordinances, permits, or licenses.

65. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude the EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

66. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 et seq., all of which remain in full force and effect. EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d) or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d), or (g), for any violation cited in this Order, any other violation of the CWA, and to enforce this Order. Neither issuance of this Order by EPA nor compliance with its terms shall be deemed an election by the EPA to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

67. EPA and Respondent recognize that this Order has been negotiated in good faith and that neither consenting to the terms of this Order, nor the actions undertaken by Respondent in accordance with this Order, constitutes an admission of liability.

68. Respondent agrees to the terms of this Order and further agrees that it will not contest the basis or validity of this Order.

69. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which Respondent may have with respect to any issue of fact or law set forth in this Administrative Consent Order, including, but not limited to, any right of judicial review of this Section 309(a)(3) Administrative Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

70. The terms of this Order are binding on Respondent, its assignees and successors. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Order. Respondent must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice and to whom ownership is being transferred including the legal name and current contact information for the transferee.

71. The signatories to this Order certify that they are authorized to execute and legally bind the parties they represent.

72. Respondent must ensure that its contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order within 14 days after the Effective Date of this Order or after the date of such retention. Respondent will be responsible for any noncompliance with this Order.

73. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq. because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

74. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

75. No modification or withdrawal of this Order shall be effective unless and until it is issued in writing by EPA.

X. CERTIFICATION OF COMPLETION

76. Within 30 days after Respondent concludes that it has complied with all requirements of Paragraphs 47-51 and 54 of this Order, Respondent shall submit to EPA a written certification of completion describing all actions taken to comply with all requirements of this Order.

77. After receipt and review of Respondent's certification of completion submitted pursuant to Paragraph 76, EPA may notify Respondent whether all requirements of this Order have been satisfied.

78. This Order shall be effective until EPA notifies Respondent that Respondent has complied with all requirements of this Order.

ADMINISTRATIVE CONSENT ORDER
In the Matter of: Ex. 6 (Personal Privacy), Inc.
Docket No. V-W-15-AO-07

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Order and to bind the party he/she represents to this document.

Agreed this 26 day of March, 2015.

For Respondent

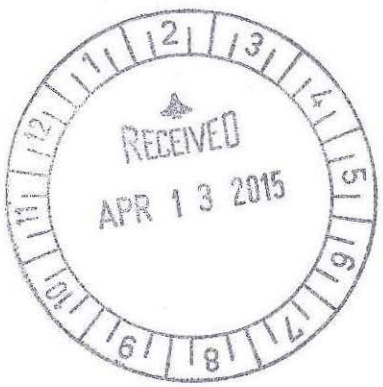
By Ex. 6 (Personal Privacy) President

Ex [redacted] President

It is so ORDERED and Agreed this 23 day of April, 2015.

By: Tinka G. Hyde

Tinka G. Hyde
Director, Water Division
United States Environmental Protection Agency
Region 5


RECEIVED
APR 13 2015

U. S. Environmental Protection Agency
Region V
Office of Enforcement and Compliance Assurance
Cleveland Office

I. Facility Identification

A. Facility Name and Address

[redacted], Inc.
[redacted]

B. Facility Contact

[redacted] – Owner
[redacted]
[redacted]

C. Receiving Waters

Wabash River via Hickory Branch via field pipe/tile

II. Dates of Inspection

April 2 and 4, 2014

III. Participants

A. Facility

[redacted] – Owner

B. U. S. EPA

Paul J. Novak, Jr. - Geologist
Anne Marie Vincent – Life Scientist

C. Ohio EPA

Hunter Young – Environmental Specialist

D. Ohio D.N.R./Mercer Soil and Water Conservation District

Terry Mescher, ODNR Conservation Engineer

IV. Objective

This inspection was conducted as part of a request from U. S. EPA Region 5 Water Division for the fiscal year 2014.

V. Summary of Findings

We entered the facility on April 2, 2014 and were met by Ex. 6 (Personal Privacy), who is owner, and with his Ex. 6 (Personal Privacy) are operators of the facility. Messrs. Hunter Young of Ohio EPA and Terry Mescher of ODNR were also present. We presented credentials to Ex. 6 (Personal Privacy) and explained our purpose to him. Attachment 1 contains a location map of the facility.

The facility is a medium CAFO for dairy cows. At the time of our inspection, Ex. 6 (Personal Privacy) Ex. 6 (Personal Privacy) told us that he had a total of 700 animals (includes milking cows, heifers and calves). There are three separate facilities that are part of Ex. 6 (Personal Privacy), Inc. The dairy itself was at capacity of 475 milking cows, the heifer facility, located at Ex. 6 (Personal Privacy) Ex. 6 (Personal Privacy), (capacity of about 225 head) and the dry cow facility located at 835 St. Anthony Road, Fort Recovery, Ohio (in total referred to as "farm"). Animals are moved between these facilities as needed. Ex. 6 (Personal Privacy) told us that in total the farm has the capacity for about 700 dairy head. He also said that the farm has been at capacity for the past five years. Attachment 2 contains aerial photographs (from Google© Maps) of all three facilities.

As we asked Ex. 6 (Personal Privacy) the questions on the U. S. EPA Region 5 Animal Feed Operation Inspection Checklist (see Attachment 3) Ex. 6 (Personal Privacy) found it difficult to answer some of the questions. He showed us his 2008 Comprehensive Nutrient Management Plan (CNMP) and said that was the only plan that he had. Mr. Mescher said however, that there was a 2012 CNMP for the farm, and that it was delivered to Ex. 6 (P Ex. 6 (Personal Privac). Later that day, we met with Mr. Mescher at the Mercer SWCD office. He showed us the 2012 CNMP for the Ex. 6 (Personal Privacy) Farm, and he gave us the forms that the CNMP has for the farmer to fill out based on various inspections the farmer/operator conducts (see Attachment 4). While we were at the Ex. 6 (Personal Privacy) Farm, Ex. 6 (Personal Privacy) could produce no records of any of those inspections.

Each of the three facilities has its own manure storage. The dairy has a lagoon with 3.25 million gallons capacity, which according to Ex. 6 (Personal Privacy) allows for 346 days of capacity (see photographs in Attachment 5). The heifer facility has a 556,000 gallon lagoon, good for 403 days capacity and the dry cow facility can store 150 tons of dry manure (good for 82 days), according to what Ex. 6 (Personal Privacy) told us. When the dry cow facility is at capacity, that manure is hauled to the dairy facility's lagoon. At the time of our inspection, there were no level markers for either lagoon, and Ex. 6 (Personal Privacy) kept no records of levels in the lagoons.

Manure is spread on farm fields either owned by [redacted] or under agreement. [redacted] told us that no weather records are kept when land application occurs.

At the dairy and heifer facilities, manure is manually scraped to the respective lagoons. He said that both lagoons were pumped down last fall and land applied. The only records of that land application were recorded in a notepad showing the rate of application (10,000 gallons per acre) and notation on what field the application took place.

We then proceeded to the "trump lot", which is an outdoor feedlot for the dairy cows. There is a small ditch that runs along the north side of the trump lot. At the western end of the ditch we observed liquid manure flowing out of the collection lane along the west edge of the trump lot into the head of the ditch. Near the northeast corner of the trump lot the ditch turns to the north. It flows for several hundred feet where it enters a receiver pipe. [redacted] told us that the receiver pipe runs to Hickory Branch of the Wabash River.

The compost pile (which receives animals from all three facilities) is at the dairy. The pile is situated on the east side of the trump lot. The pile is less than 100 feet south of the ninety degree turn in the ditch that runs to the north to a receiver pipe (see annotated aerials in Attachment 2). The compost is also land applied by the [redacted] keeps no mortality records for mortalities.

Bedding at the dairy is both corn fodder and straw. Straw is used at both the heifer and dry cow facilities. All bedding is land applied by the Schaefer's.

Feed is stored in bags (corn silage), bins (corn shell, dry), and silage in the feed bunker at the dairy facility. We did observe the feed bunker at the dairy facility and found the leachate exiting the bunker at the west end of the north wall and flowing freely into a small swale/ditch that runs east into a field (just to the east).

Due to previous manure spills from the farm, Ohio EPA requested the farm to file for an NPDES permit. Attachment 6 contains a copy of the application. Attachment 7 contains a copy of an Ohio EPA Notice of Violation (NOV) dated April 1, 2011. The NOV was issued in response to a spill of land applied manure from the [redacted] farm. [redacted] told us that his sons applied the manure to ice covered ground and it ran off into the Hickory Branch and then into the Wabash River.

Attachment 8 contains an Inspection Report from an inspection conducted by Ohio EPA on December 11, 2013. Among several items that the Ohio EPA inspection found was the toilet from the Dairy was plumbed into the manure lagoon. [redacted] told us that there was a possibility that the toilet could be plumbed into an abandoned septic tank from a house on the property. On April 3, 2014 we visited the Mercer County-Celina City Health Department and we spoke with Mr. Chris Miller, Sanitarian-11. We explained to him the Ohio EPA findings about the toilet issue and he told us that

their agency would look into the issue. On March 4, 2014 Ohio EPA issued a letter (see Attachment 9) to the farm requesting information that was sought in the December 11, 2013 Ohio EPA inspection. When we asked [redacted] about the inspection and follow-up letter, he said he was unaware of what was in the follow-up letter since he did not even open it.

VI. Sampling

On April 4, 2014, we re-entered the Dairy facility to collect samples. Anne Marie Vincent and I met [redacted] and he led us to the northeast corner of the trump lot where a swale, which starts from the northwest corner of the trump lot (where we observed manure flowing from the collection lane on the west edge of the trump lot) turns to the north (see annotated aerial photograph in Attachment 2). We observed flow coming from the area around the compost pile and the field immediately to the east of the compost pile. We collected sample S01 east of the culvert pipe under the drive where the two streams joined.

We collected sample S02 a few feet south of the receiver pipe where the ditch discharges into. [redacted] told us that the receiver pipe itself discharges into the Hickory Branch of the Wabash River. Trip blank R03 was collected later in the afternoon on April 4. We took the fecal coliform, BOD_5, and a blank to Alloway Laboratories in Lima, Ohio. All other analyses were performed by Chicago Regional Laboratory (CRL).

Attachment 10 contains Table 1 which shows results for the field parameters that we collected. Also in Attachment 2 is Table 2 which summarizes the analytical results from samples sent to Alloway Laboratories and CRL. Attachment 11 contains copies of the CRL Data Analysis Sheets for samples S01, S02 and trip blank R03. Attachment 12 contains the Analytical Report sheets from Alloway Laboratories for Samples S01, S02, and S03.

Attachment 13 contains a copy of the U. S. EPA Form 3560-3. Attachment 14 contains a copy of the U. S. EPA Inspection Conclusion Data Sheet Form.

List of Attachments

1. Location Map
2. Aerial Views of Separate Facilities
3. U. S. EPA Animal Feed Operation Inspection Checklist
4. Selected Pages from the 2012 Comprehensive Nutrient Management Plan
5. Photographs
6. 2004 NPDES permit Application
7. April 1, 2011 Ohio EPA Notice of Violation
8. December 11, 2013 Ohio EPA Inspection Report
9. March 4, 2014 Letter from Ohio EPA
10. Table with Field Parameter results
11. CRL Data Analyses Sheets
12. Alloway Laboratories Analytical Report Sheets
13. U. S. EPA form 3560-3
14. U. S. EPA Inspection Conclusion Data Sheet form

ATTACHMENT 1

[redacted]

FEET

m.N.

GREENVILLE 29 MI.

690000m.E.

(COLDWATER)

1 MILE

000 FEET

ETER

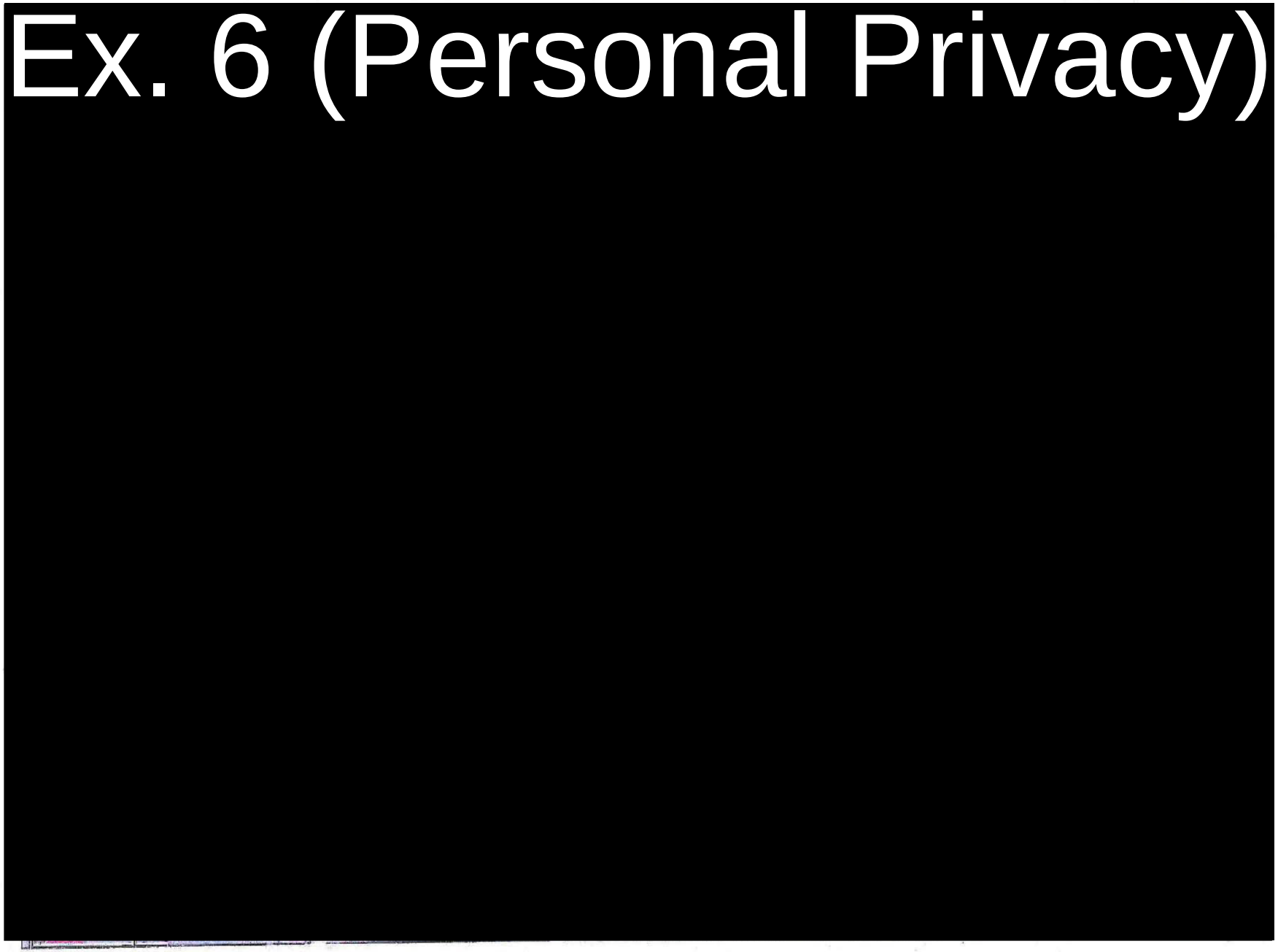
ROAD CLASSIFICATION

Heavy-duty ——— Light-duty ———

Medium-duty ——— Unimproved dirt - - - - -

State Route

ATTACHMENT 2



Relative location of all three facilities of Ex. 6 (Personal Privacy) Inc.

Map
Traffic
St Anthony Rd
St Anthony Rd
St Anthony Rd
St Anthony Rd
Ex. 6 (Personal Privacy)
Ex. 6 (Personal Privacy)
Dry Cow Facility,

Heifer Facility, Ex. 6 (Personal Privacy)

ATTACHMENT 3

A. GENERAL INFORMATION (Shaded boxes are for inspector to fill in independently)

FACILITY NAME (LLC, Inc., Corp, Partnership, sole proprietorship, etc. If facility representative is [redacted]	INSPECTION DATE	ARRIVAL TIME
[redacted] Inc.	4-2-14	1045
[redacted]	INSPECTOR(s) INITIA[redacted]	DEPARTURE TIME 4-4-14 @0955

CITY	STATE	ZIP CODE	STATE INSPECTOR (if present)
Ex. 6 (Personal Privacy)	Ex. 6 (Personal Privacy)	Ex. 6 (Personal Privacy)	H. Young - OEPA

LEGAL DESCRIPTION (latitude and longitude)	COUNTY	TEMPERATURE	PRECIPITATION TYPE
	Mercer		

	NAME	PHONE
Facility Owner(s) (Ask for formal name and obtain a business card, letter head or other documentation)	Ex. 6 (Personal Privacy)	Ex. 6 (Personal Privacy)
	Ex. 6 (Personal Privacy)	PHONE
Facility Operators (If different than the owner)	NAME SAME	PHONE
	NAME	PHONE

Is the Animal Facility a CAFO? YES / NO	CAFO Classification? (Medium or Large?)	CAFO Designation Date (If a designated CAFO)	Designation Reason (If a designated CAFO)
YES	Med.		

TYPE OF OPERATION (Circle all that apply)	NUMBER OF ANIMALS OF EACH TYPE (Present at time of inspection)	CAPACITY	TYPE OF CONFINEMENT (Open Lot, Partial or Total Confinement, Pasture)
BEEF CATTLE	700 hefers, calves & Milk cows	700	confined
DAIRY (Mature and Dry)	~475 milk		
SWINE			
HEIFERS/CALVES	~100 calf		
TURKEYS			
CHICKENS			
OTHER 700 total	~225 hefers		

1.	What number of animals are stabled/confined and feed/maintained for 45 days or more during a twelve month period? Get documentation (computer records, daily records) for the past year that provides the number of animals on facility each month.		ALL
2.	What are the minimum number of animals that you have had at this facility since the date of operation	AT MAX PAST 5yrs	~~700~~ 4-2-14
3.	What are the maximum number of animals that you have had at this facility since the date of operation		700
4.	Do the animals have direct access to waters of the United States and/or its tributaries?		YES / NO ✓
5.	Does the facility have the ability to discharge livestock waste to waters of the US via a man made conveyance?		YES / NO
6.	Are any crops, vegetation, forage growth, or post harvest residues sustained in the normal growing season over any portion of the lot or facility where animals are kept?		YES / NO ✓
7.	What is the total area (acres) devoted to production? (Includes buildings, manure storage areas, feedlots, chemical buildings, and offices. If a large facility this also includes land application area. Not pasture.)		
8.	What is the total area (acres) devoted to pasture?		NONE
9.	Is the facility currently operating under a National Pollution Discharge Elimination System (NPDES) permit? If yes, indicate NPDES ID.		YES / NO ✓
10.	(ILLINOIS ONLY) Are you a Certified Livestock Manager (300 or greater ***animal units***)? (Should have a certificate that they were certified by the Dept. of Agriculture.) (Ask to see it if they have one.)	N/A	YES / NO
11.	(ILLINOIS ONLY) If greater than 1000 ***animal units*** but less than 5000 ***animal units***, a general waste management plan shall be prepared and maintained on file at the facility. If this applies, is plan maintained at the facility? (Ask to see it if they have one.)	N/A	YES / NO
12.	(ILLINOIS ONLY) If greater than 5000 ***animal units*** a waste management plan must be prepared, maintained and submitted to the Dept. of Agriculture. If this applies, did facility do this requirement? (Ask to see it if they have one.)	N/A	YES / NO
13.	Does the facility have a current NMP or CNMP? (Details gathered in Section G, but facility representative may need to begin looking for it now)		YES / NO

14.	Does the facility have any other locations under common ownership, or where equipment and/or manure is shared, or where the other site shares land application sites? If so, put names and addresses below.	YES	NO
	3 facilities Dairy, Heifers+calves, Dry Cow facilities Ex. 6 (Personal Privacy) – Heifer Ex. 6 (Personal Privacy) – Dry Cow-cement lot * hauled to Dairy manure	✓	

B. MANURE, LITTER, AND PROCESSED WASTEWATER STORAGE TYPE

Type of Storage	Storage Capacity
Storage Lagoon	Dairy 200'x400' ✓ 3,251MMG 346 days; Heifer ✓ 556MG 403 days; Dry 150 tons 82 days
Holding Pond	
Above Ground Storage Tanks	
Below Ground Storage Tanks	
Roofed Storage Shed	
Concrete Pad	
Impervious Soil Pad	
Underflow Pits	
Anaerobic Digester	
Outdoor Piles	
None	
Other	1400 tons 641 days

C. LIVESTOCK WASTE MANAGEMENT AND MORTALITIES

1.	Does the facility have any existing livestock waste management systems? **If yes, continue filling out Section C.** **If no, then proceed to Section D.** Compost pile @ Dairy	YES ✓	NO

2. Provide a detailed description of the waste management system. (Include structure types, capacity and condition. Include solid and liquid manure handling, and mortality.)

Compost Pile is spread on farm field – by their own equip. by Themselves
- Sawdust on pile
- No records for # of mortalities or for field App.
- spread 1x /2yrs
- pile on earth

3.	Does the system have a managed outfall or discharge point?	YES X	NO

If Yes, please provide a detailed description. (Riser pipe, spill way, etc. Include a description the area receiving the discharge.) Ditch to receiver pipe (which flows to Hickory Branch), but this discharge point has no pollution controls on it other than a screen.

4.	Are there any portions of the production area where runoff is not controlled?	YES X	NO
If Yes, provide a detailed description of the area(s) of concern: NW corner of Trump Lot & compost pile			
5.	Who designed the storage structures? Homan Equip designed + built lagoons		
6.	Did you receive help from any organization (like NRCS) in the design of the storage structure? If so, who? Yes for Dairy facility NOT known for Hefer		
7.	In what year were the storage structures constructed? Hefer ~1980 Dairy		
8.	Does the facility have the As-Built for the storage structures? (Ask to see them and note sizes of ponds/lagoons in gallons.) NO		
9.	What type of lining is used for the storage structures? (Example: clay, concrete, plastic, etc.) Clay		
10.	Do the storage structures have depth markers or staff gauges?	YES	NO ✓
11.	Are levels of manure in the storage structures recorded and records kept? (If YES, ask to see records. Photograph them or get copies.)	YES	NO ✓
12.	Total number of acres available for land application? 800 acres owned or held by Schaefer's *		
13.	When was the last time the storage structure was pumped down? (If within the past two months, fill out section I.) both pumped down last fall		
13.	Are land application records kept? (If YES, ask to see records. Photograph them or get copies.)	YES	NO
14.	Is manure transferred off-site to another party?	YES	NO ✓
15.	Are records of manure transfers kept? (If YES, ask to see records. Photograph them or get copies.) N/A	YES	NO
16.	Do the facility personnel perform routine visual inspections of the production area? Yes ~1x month	YES ✓	NO
17.	Are the routine visual inspections documented? (If YES, ask to see records. Photograph them or get copies.)	YES	NO ✓
18.	How are mortalities managed? (Composted, buried, burned, rendering service, other) (Get name of rendering service if rendered.) Composted		
19.	Are mortalities documented and are records kept? (If YES, ask to see records. Photograph them or get copies.) LAND APP ONLY	YES ✓	NO ✓

* ~200 acres under agreement

Water Sources that Need to be Contained

20. What type of method is used to provide drinking water for the animals? (Circle one)

Overflow waters

Tip Tanks yes Dairy + hefer,

~~Nipple waters (if~~ nipple waters are used for swine, is backflow prevention installed?)

Other (describe) Floats/troughs yes all three

21. How is the water for animals contained?
spilled to yards + scrapped to lagoon

		YES	NO
22.	Is a mist cooling system used?		✓

If YES, describe how mist water is contained?

		YES	NO
23.	Is this a dairy operation? **If yes, answer the following questions in this section.** **If no, go on to the Bedding section.**	✓	

24. How many times per day are cows milked? 2X

25. Describe how non-contact cooling water (or also called plate-cooler water) is contained?
(Example: It is reused for drinking water for the animals.)
to tanks then to waterers

26. Describe how the milking parlor is cleaned (hose or flush) and where the process wastewater goes and how it is contained. high pressure washer to tank to lagoon

27. Describe how the tank(s) are washed and where the process wastewater goes and how it is contained.
Auto washed to above pit

28. Describe where teat dip containers and waste barrels are located.
In storage bldg or utility bldg.

29. Describe where the Copper Sulfate or Formaldehyde (for the foot baths) is located (both unused and used).
outside of milking parlor

Bedding	
30.	Describe what type of bedding is used for the animals. (Is a different type of bedding used for young animals?) Dairy - corn fodder or straw - all grown by Schaefers Hefer - straw Dry - "
31.	Describe how bedding is collected and how often. hauled to farm fields directly Mr. S. not for ~~sho~~ sure how often. In winter to lagoons for both diary + hefer Dry cow bedding to Dairy lagoon
32.	What is done with the used bedding? REUSED (LAND APPLIED)
Manure Collection	
33.	How is manure collected? (Circle one) Dairy + hefer + dry Scraped: Automatically (Manually) ~~tractor~~ every few weeks Scrape/Gravity (Scraped to middle or end of barn to a pipe that gravity feeds to storage structure) Scrape/Flush (Barns flushed with water after scraping) Flush (Cleans out barns with clean or reused water) Vacuum (Solids are separated by a vacuum before entering storage pond) Other (Describe this)
34.	If manure collection system uses either clean or reused water to flush, describe where this water comes from. (Storage pond, well water, city water, etc.)
35.	If manure collection system uses either clean or reused water to flush, describe where this water goes and how it is contained.

Manure Storage

		YES	NO
36.	Is manure stored for the short term? (Daily haul, small pits/storage) only @ Hefer for ~1 month	✓	

If YES, indicate for how long manure is stored for the short term.
Depends on weather

How is the short term storage drained? GRAVITY AUTOMATICALLY PLUG
pumped to Hefer lagoon

	YES	NO
If Automatically, is there a backup power system in place?		

If YES, describe the backup power system.

37. Where is manure stored for long term and for how long?

Concrete pit under floor (how long stored here?) _____

Concrete storage structure outdoors _____

Earthen storage structure outdoors 2 (1-dairy, 1-Hefer) 1 yr

Slurry storage structure _____

Other (Describe this) _____

Feed Storage Containment

38. Describe how feed is contained, including type of storage structure, capacity and type of feed.

Dairy - Feed bunker + silos 14 x 100 x 150 - bunker silage
all raised by Schaefer's
occasionally buy shelled corn

Hefer - All silos

Dry - hauled from dairy

39. Describe how feed runoff is contained.

- yard runoff pumped to lagoon from pit

D. RECEIVING SURFACE WATERS

1.	Provide a detailed description of the flow path from the facility to the nearest named surface water. (Include detailed descriptions of all unnamed tributaries, ditches, and/or other flow paths *i.e.*, depth, width, color, odor, slope, amount of water present, soil type, erosivity, etc. Ask for local name of ditches/streams.) - Dairy is hdwater of grassed waterway		
2.	Are there any man made features not associated with the production area that can affect runoff?	YES	NO
If YeS, provide a detailed description.			
3.	Are there any storm water pathways entering the facility?	YES ✓	NO
4.	Are there any clean water/storm water ponds on site?	YES	NO ✓
5.	What is the name of the receiving stream and the names of next streams or rivers in flow path? 2 received pipe to Hickory Branch to Wabash River		
6.	How many months out of the year does the receiving stream/ditch have flow in it? Hickory Br – 12		
7.	What is the name of the first navigable water? Hickory Branch		
8.	Status of the named surface water? (Intermittent) (Perennial) Lat head water end		
What was the State's designation for this Surface water? *(if –applicable)*			
Is this surface water or subsequent tributary listed as an impaired water on the current state 303(d) list?		YES	NO X
If YES, what is the impairment?			

E. DISCHARGES

1.	What is the 25-year 24-hour rainfall amount for this location? You can find out this information from the Precipitation Frequency Data Server: http://hdsc.nws.noaa.gov/hdsc/pfds/index.html 4.4" for Mercer Co.		
2.	Have there been any documented discharges of livestock waste to surface water ***in the past year?*** **If YES, answer parts a – i below. If NO, go to part F.** 2011 spill	YES X	NO
	a. Specify the date(s). 2011		
	b. What was the reason for the discharge? over application of manure		
	c. What was the duration? not known		
	d. What was the volume? not known		
	e. Was the discharge the result of a 25 year-24 hour rainfall event?	YES	NO X
	f. What was the precipitation amount? *(if applicable)*		
	g. Were EPA and/or the State notified?	YES	NO X
	h. Provide a detailed description of the flow pathway and the area(s) receiving the discharge(s). *(include Photographs)* From field to Hickory Branch		
	i. Has the facility taken corrective action to remedy the situation which caused the discharge(s)?	YES X	NO
	If YES, describe actions taken: No longer will over apply manure		
3.	Is the facility currently discharging livestock waste from the production area? (This can be seen during the walk-through of the facility.) X	YES X	NO
	What is the reason for the discharge? X		
4.	Is the discharge the result of a 25 year-24 hour rainfall event?	YES	NO X
5.	What was the precipitation amount immediately before this discharge? *(if applicable)*		
6.	Was a sample taken? *If YES, then fill out Section G.*	YES X	NO
	Provide a detailed description of the flow pathway and the area(s) receiving the discharge(s). From NW corner of Trump lot and compost pile to ditch to receiver pipe to Hickory Branch.		

X see ~~ad~~ attached report for possible discharge on " " "

Permit App submitted in 2004, permit not issued

F. NPDES PERMIT INFORMATION (If no NPDES Permit, skip this section)			
1.	What type of NPDES permit has been issued? (Circle one.) Individual NPDES Permit General NPDES Permit	NPDES #	
2.	What date was the NPDES permit issued?		
3.	What date does the NPDES permit expire?		
4.	Is a copy of the NPDES permit onsite?	YES	NO
5.	Permitted number of animal units?		
6.	Does the NPDES Permit contain a compliance schedule?	YES	NO
If YES, provide a detailed description of the requirements in the compliance schedule and their status.			
7.	Have there been any changes made to the production area since the permit was issued?	YES	NO
If YES, provide a detailed description of those changes.			
8.	Does each open surface liquid impoundment have an adequate depth marker (e.g., staff gauge)?	YES	NO ✓
9.	Are liquid levels recorded in accordance with the NPDES permit?	YES	NO
10.	Is the facility maintaining adequate storage capacity in each manure or litter storage structures?	YES	NO
11.	When storage capacity is not available, are all structures dewatered/emptied in accordance with the NPDES permit?	YES	NO
12.	Are manure solids stored onsite in accordance with the NPDES permit?	YES	NO
13.	Is manure transferred off-site in accordance with the NPDES permit?	YES	NO
14.	Are records of off-site manure disposal being maintained in accordance with NPDES permit?	YES	NO
15.	Is the facility performing routine visual inspections of the production area in accordance with the NPDES Permit?	YES	NO
16.	Are the visual inspections documented?	YES	NO
17.	Are mortalities managed and disposed of in accordance with the NPDES Permit?	YES	NO
18.	Is mortality management documented?	YES	NO

19.	If you answered NO for any of the questions 6-18, then provide a detailed description of the potential permit violation(s). Permit not issued by OEPA.		

G. NUTRIENT MANAGEMENT PLAN (If no NMP, skip this section)

1.	Does the facility maintain a copy of the nutrient management plan (NMP) onsite? Old copy shown to us - NRCS has issued new plan	YES X	NO
2.	Does the NMP reflect the current operational characteristics (number of animals, cropping, etc.)?	YES	NO X
3.	Are the numbers of acres owned/acres leased consistent with those in the NMP? ***	YES	NO
4.	Is manure and wastewater being applied in accordance with set-back/buffer requirements of the NMP? ***	YES	NO
5.	Are all of the records identified in the NMP being maintained and kept current? *	YES	NO X
6.	Are records being maintained at the required frequency? ***	YES	NO
7.	Are records being maintained onsite for the period required by NMP and/or NPDES permit? ***	YES	NO
8.	Is the NMP adequately addressing the storage, handling and application of manure and wastewater to prevent discharges to waters of the U.S.? ***	YES	NO
9.	If you answered NO for any of the questions 1-8, then provide a detailed description of the potential permit violation(s) (optional). *** - FOIA required to obtain newest NMP from NRCS/Mercer SWCD. * Mr. Schaefer was unable to produce many records although he did have a notebook where he wrote field + gallons applied		

H. SAMPLING			
1.	Were samples taken during the inspection?	YES X	NO
2.	Provide a detailed description of the sampling methods and protocols used, including representative samples, background, holding times, and preservation techniques. (OK to reference the QAPP.) See attached report, per SOP's of C.O.		
3.	Provide a detailed description of where the samples were collected. Include photos and maps of sampling locations. (OK to reference the aerial photo, or logbook where notes on samples were taken.) S01 - Juncture of swale from NW corner of Trump Lot & swale from compost pile S02 - Few feet S of receiver pipe that receives flow from ditch that receives flow from above R03 - Blank		
4.	Provide a detailed description of the weather conditions at the time the sample was collected. Rain just ended, v. cloudy		
5.	Classify the odors present on site and locations where malodorous conditions were present. (Scale of 1-10, with 10 being the worst thing you have ever smelled.) Due to recent rain events no odors detectable above usually daidy odor levels		

I. LAND APPLICATION SITES	
1.	

OTHER COMMENTS/NOTES

ATTACHMENTS INCLUDED WITH THIS CHECKLIST

INSPECTORS SIGNATURE AND DATE

Paul H Mockaf
6-12-14

ATTACHMENT 4

Section 9. Recordkeeping Forms

9.1. Producer Activity Checklist

Calendar Year _____

Activity	Jan	Feb	Mar	April	May	June	July	August	Sept	Oct	Nov	Dec
Soil Sampling												
Date / Initials												
Manure Sampling												
Date / Initials												
Spreader or Equipment Calibration												
Date / Initials												
Record Manure Volume Storage:	X	X	X	X	X	X	X	X	X	X	X	X
Volume / Initials												
Record Manure Volume Storage:												
Volume / Initials												
Record Manure Volume Storage:												
Volume / Initials												
Mow Grass on Earthen Berm												
Date / Initials												
Other												
Date / Initials												
Recordkeeping (see forms on following pages)	X	X	X	X	X	X	X	X	X	X	X	X

Notes: An X indicates that the indicated activity is scheduled for that month. Duplicate this form as needed for additional years.

9.2. Inspection/Monitoring Records

Date	Activity Description	Operator/ Inspector	Activity Data

9.3. Crop Records

Field	Crop	Planting Date	Hybrid or Variety	Pop-ulation Planted	Crop Residue (%) (1)	Tillage and Dates	Harvest Date	Yield/ Acre

(1) Percent residue cover left after planting

9.4. Manure Application Records

App #	Field	Date	Manure Source	Equipment	Days to Incorp.	Rate/A Gal or Ton	Loads	Total Applied Gal or Ton	Acres Cov
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									

App #	Hauler's Name (1)	Ground Cover % (2)	Soil Condition (3)	Air Temp (4)	Wind Speed (5)	Wind Dir. (6)	Weath-er (7)	Rain Before (8)	Rain After (9)	Notes/Comments
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										

(1) Name or initials of the person who applied the manure.
(2) Percent residue or ground cover at time of application.
(3) Soil condition at time of application: Dry, Firm, Wet, Muddy, Snow-Covered, Frozen.
(4) Air temperature at time of application.
(5) Wind speed at time of application: Calm (0-2 mph), Light (2-5 mph), Breezy (5-15 mph), Windy (>15 mph).
(6) Wind direction at time of application: N, NE, E, SE, S, SW, W, NW.
(7) Weather condition at time of application: Sunny, Partly Cloudy, Cloudy, Rain, Snow.
(8) Amount of rainfall during the 24 hours prior to application.
(9) Amount of rainfall during the 24 hours after application.

9.5. Commercial Fertilizer and Irrigation Water Application Records

Field	Date	Analysis (1)	Form Dry or Liquid	Application Method	Material Rate/A Lbs or Gal	Total Applied Lbs or Gal	Acres Cov.	Notes/Comments

(1) With commercial fertilizers, enter the analysis in the form of $N\text{-}P_2O_5\text{-}K_2O$ (examples: anhydrous ammonia is 82-0-0, diammonium phosphate is 18-46-0). With irrigation water, enter the nitrate concentration in ppm.

9.6. Manure Exports off the Farm

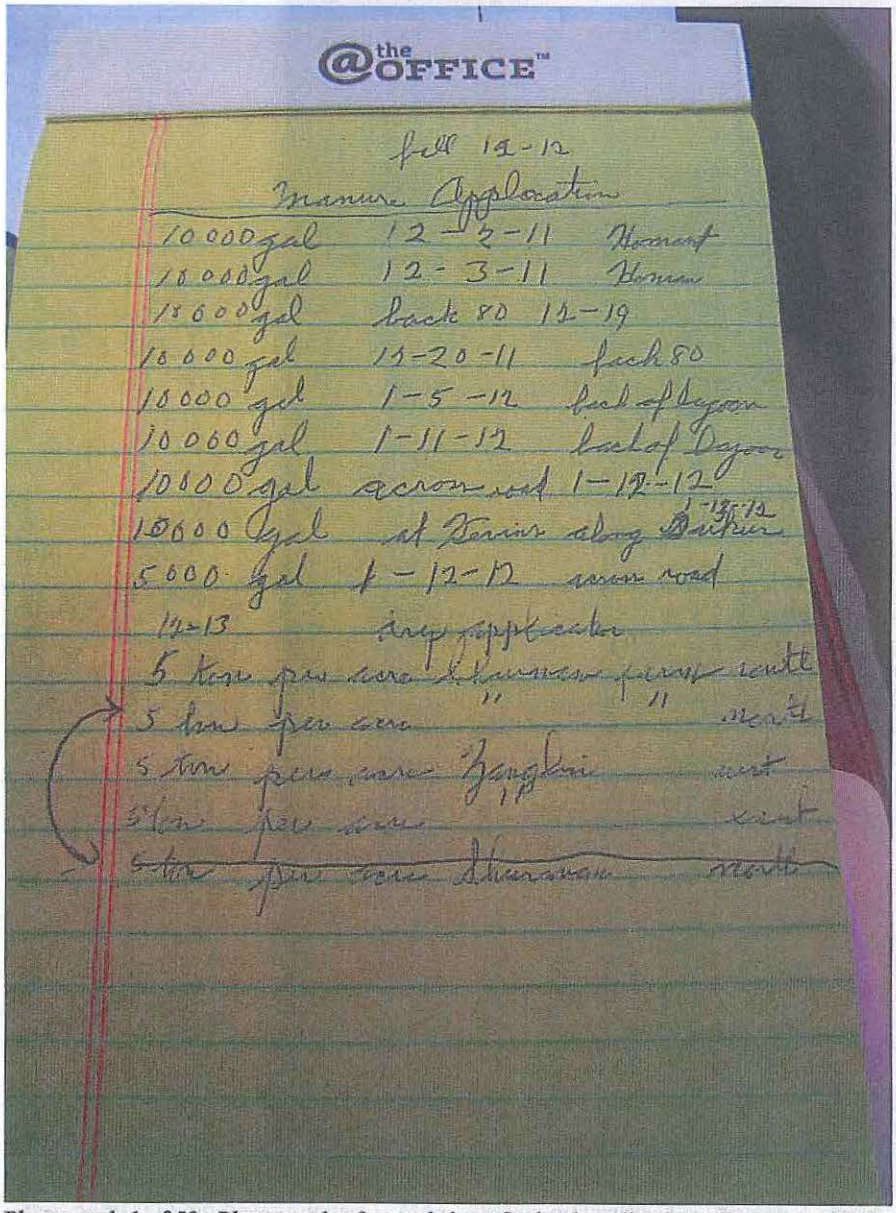
Manure Source	Date	Amount Gal or Ton	Receiving Operation	Address	Contact	Phone

9.7. Manure Imports onto the Farm

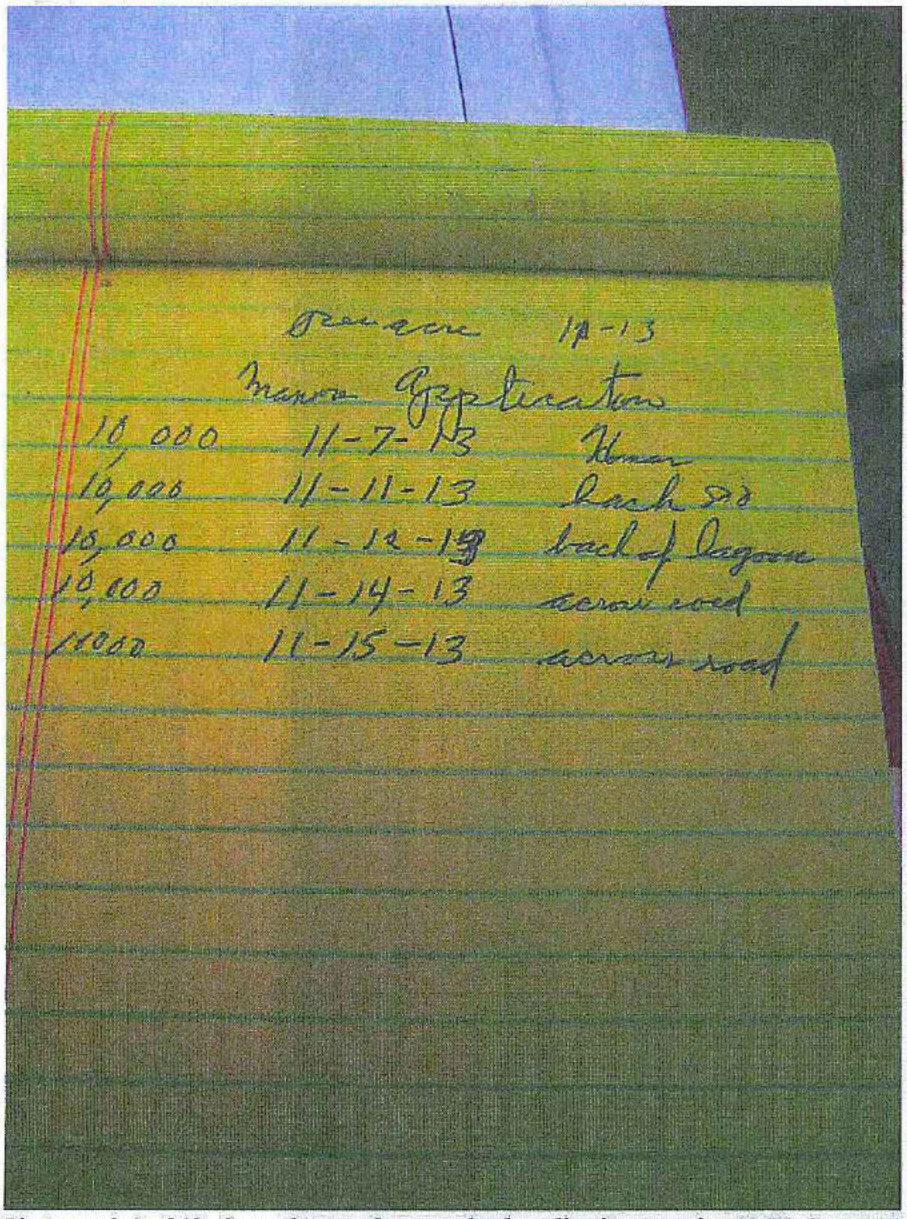
Manure's Animal Type and Form	Date	Amount Gal or Ton	Originating Operation	Address	Contact	Phone

9.8. Internal Transfers of Manure

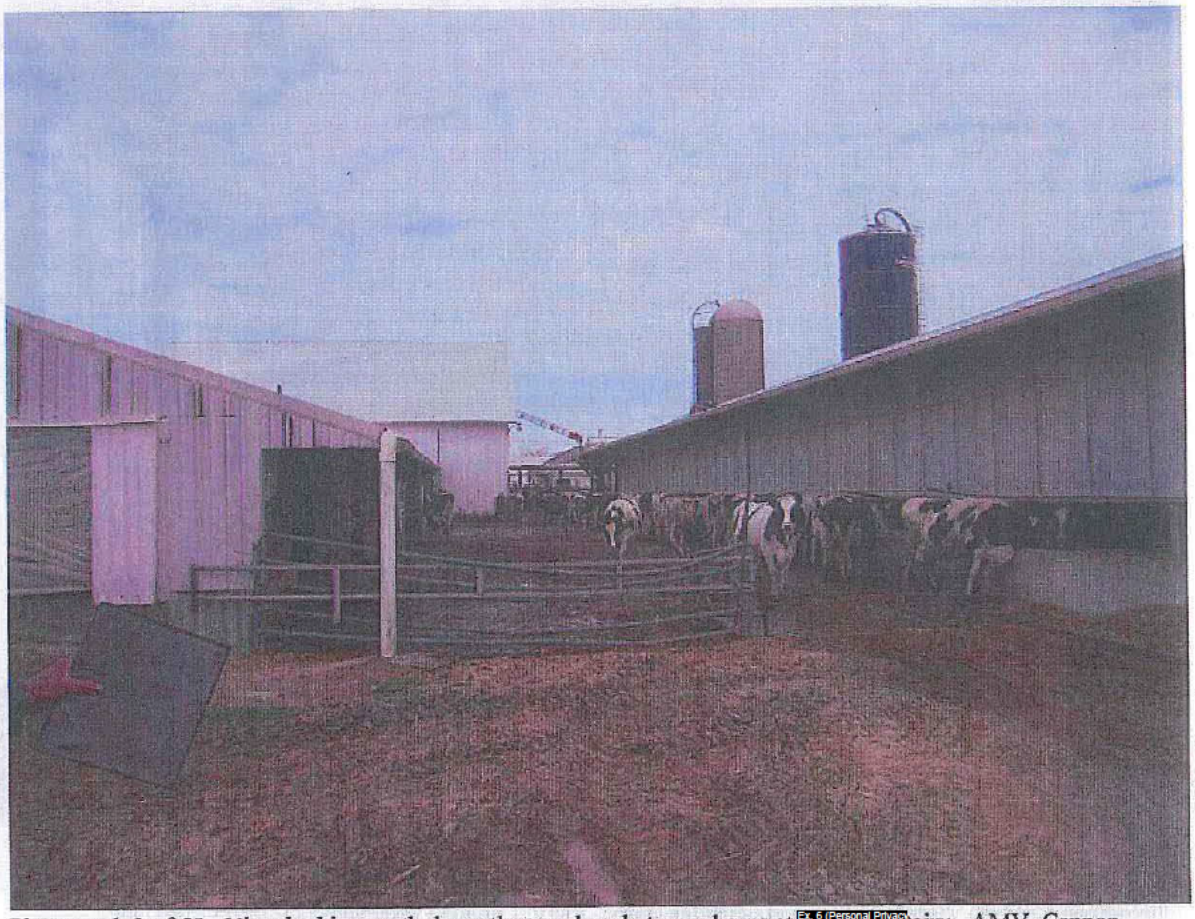
Manure Source	Date	Amount Gal or Ton	Manure Destination	Purpose of Transfer



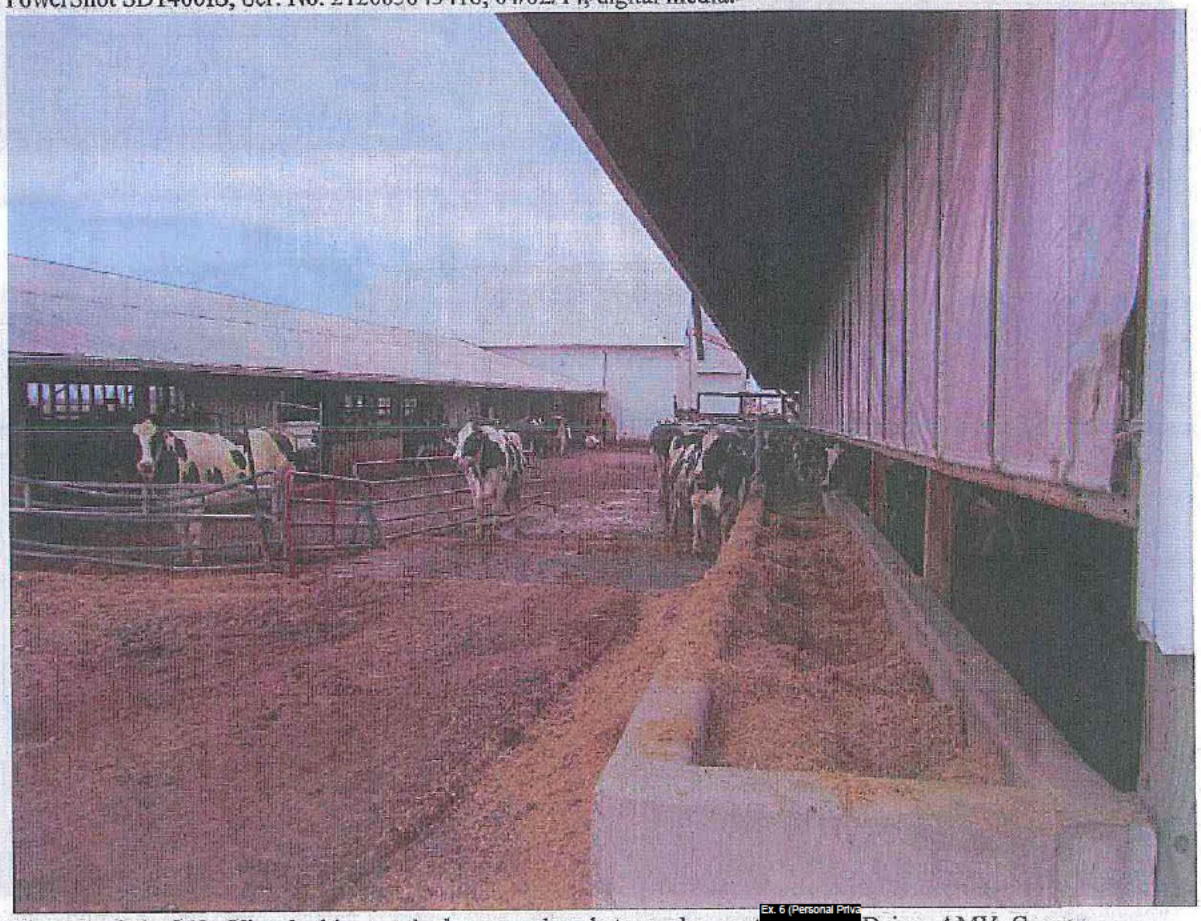
Photograph 1 of 58. Photograph of records kept for land application of manure. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



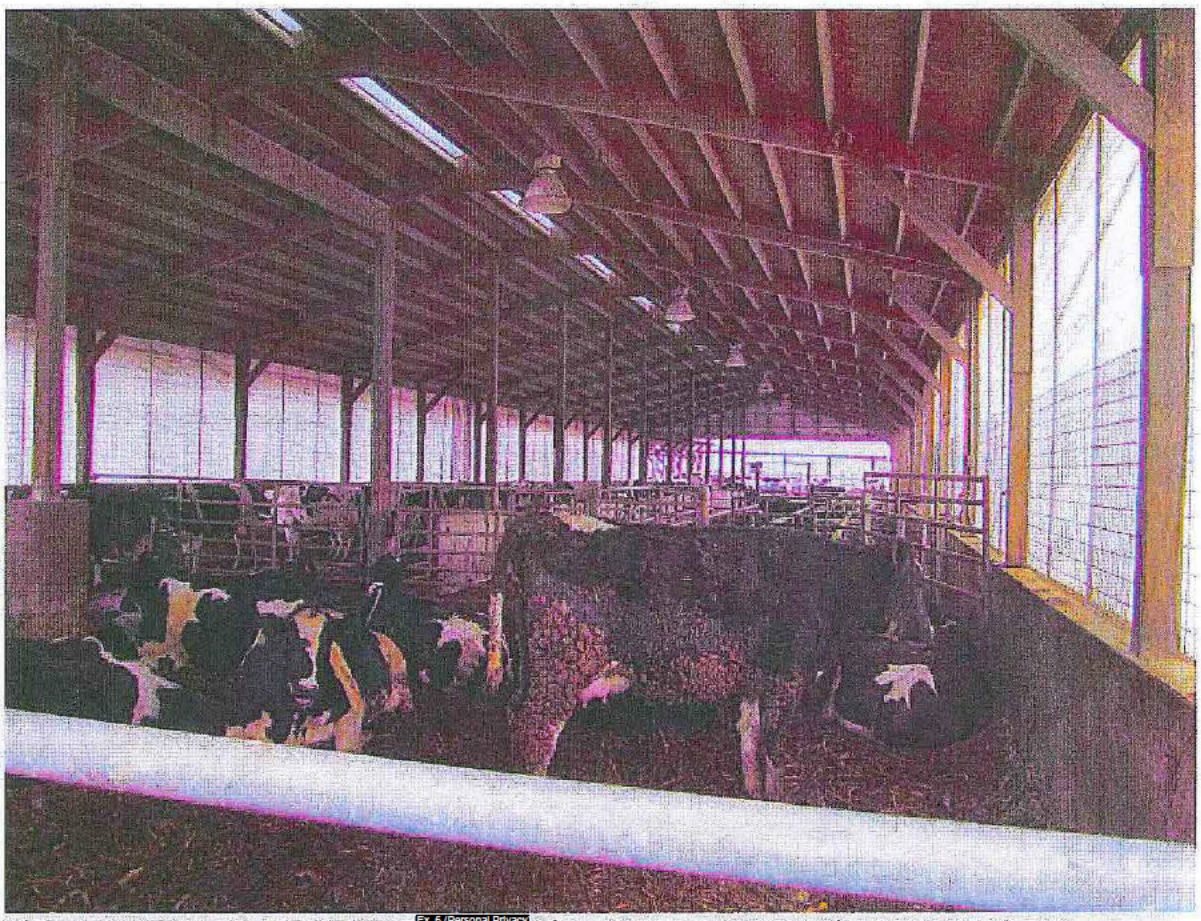
Photograph 2 of 58. Second page of manure land application records. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



Photograph 3 of 58. View looking north down the cow lane between barns at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

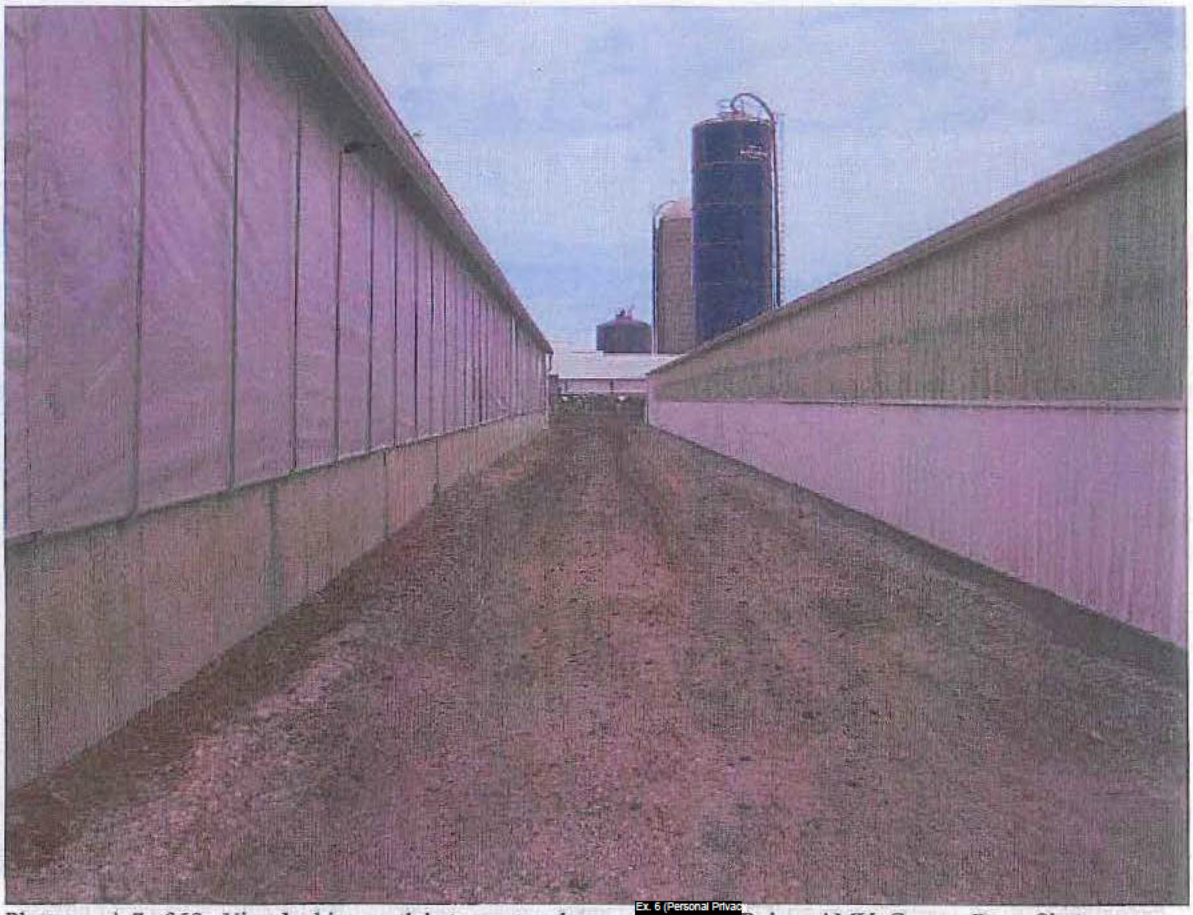


Photograph 4 of 58. View looking north along cow lane between barns at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

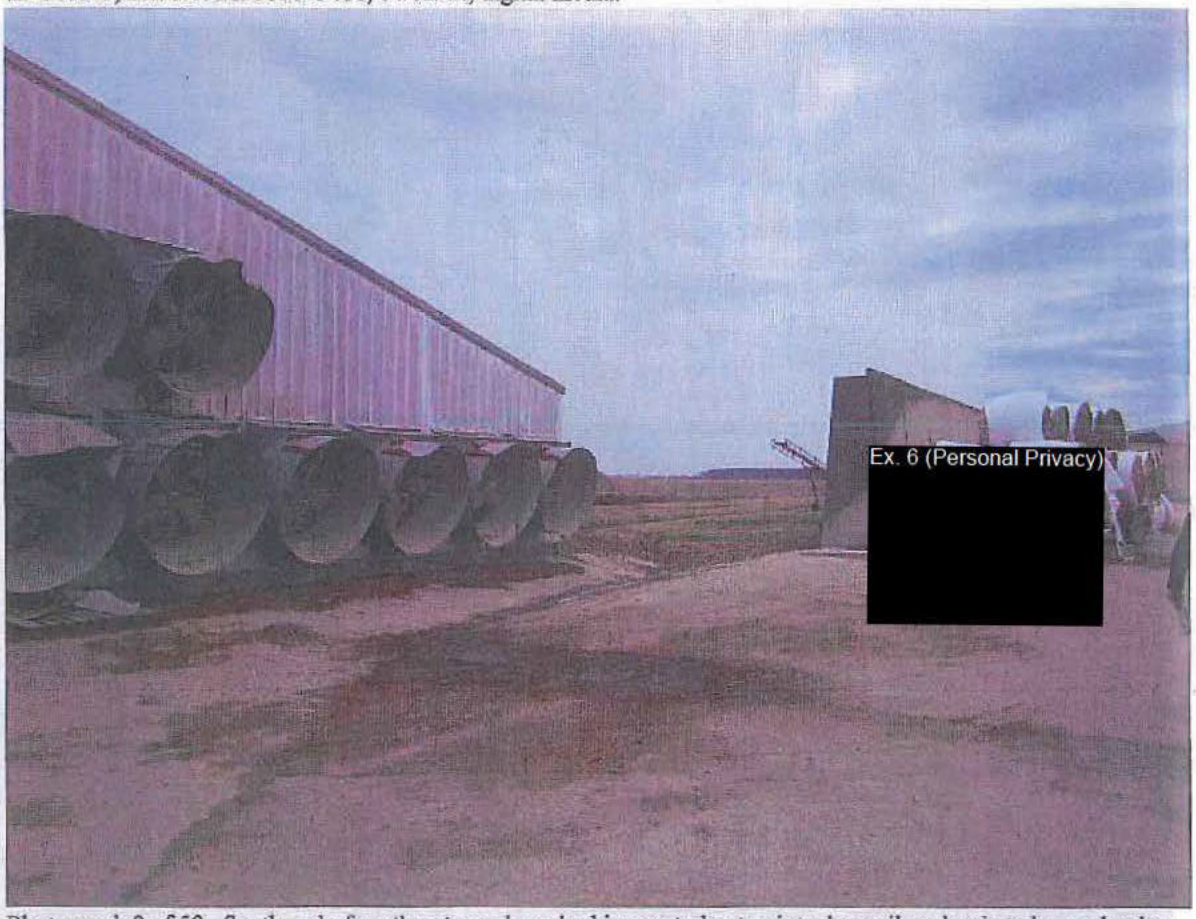


Photograph 5 of 58. View inside barn a[Ex. 6 (Personal Privacy)]Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

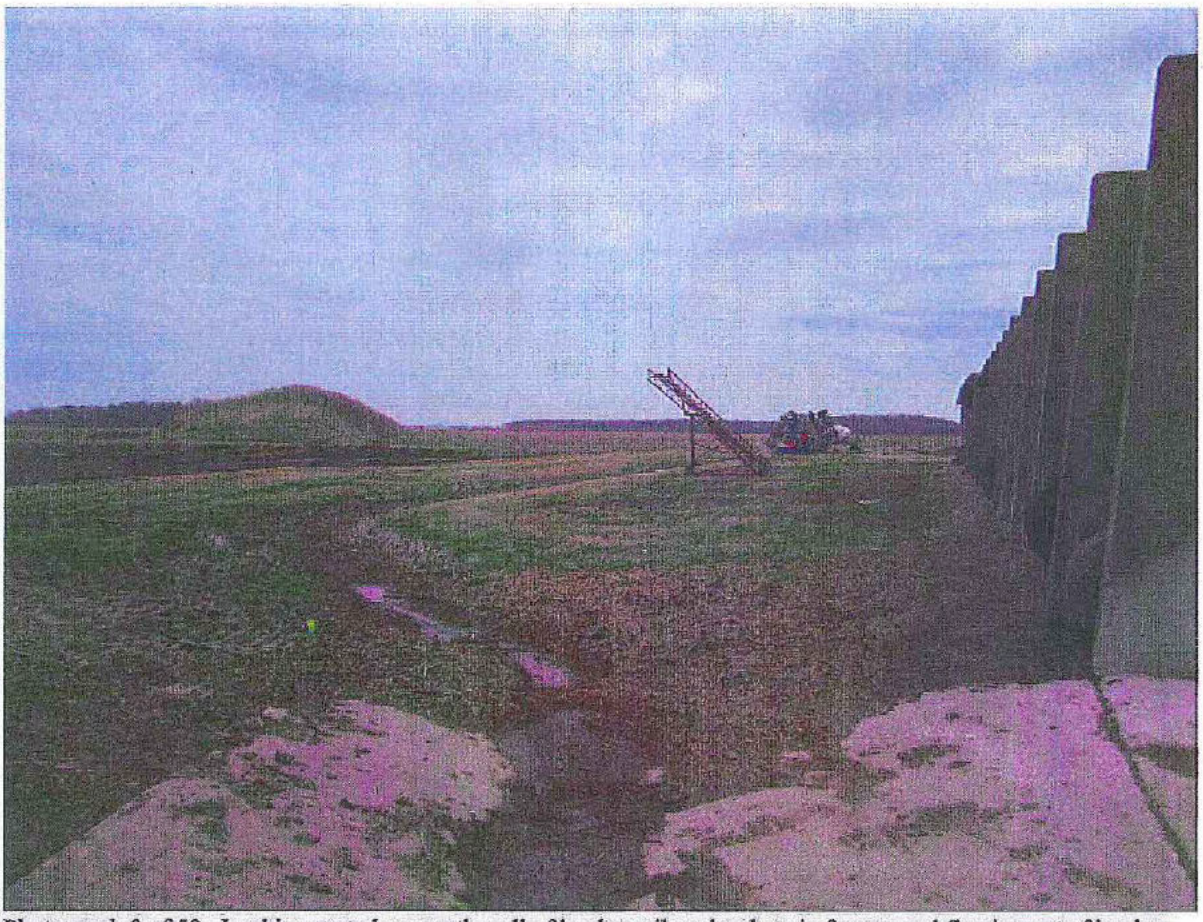
Photograph 6 of 58. View of a waterer inside a barn a[Ex. 6 (Personal Privacy)]Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



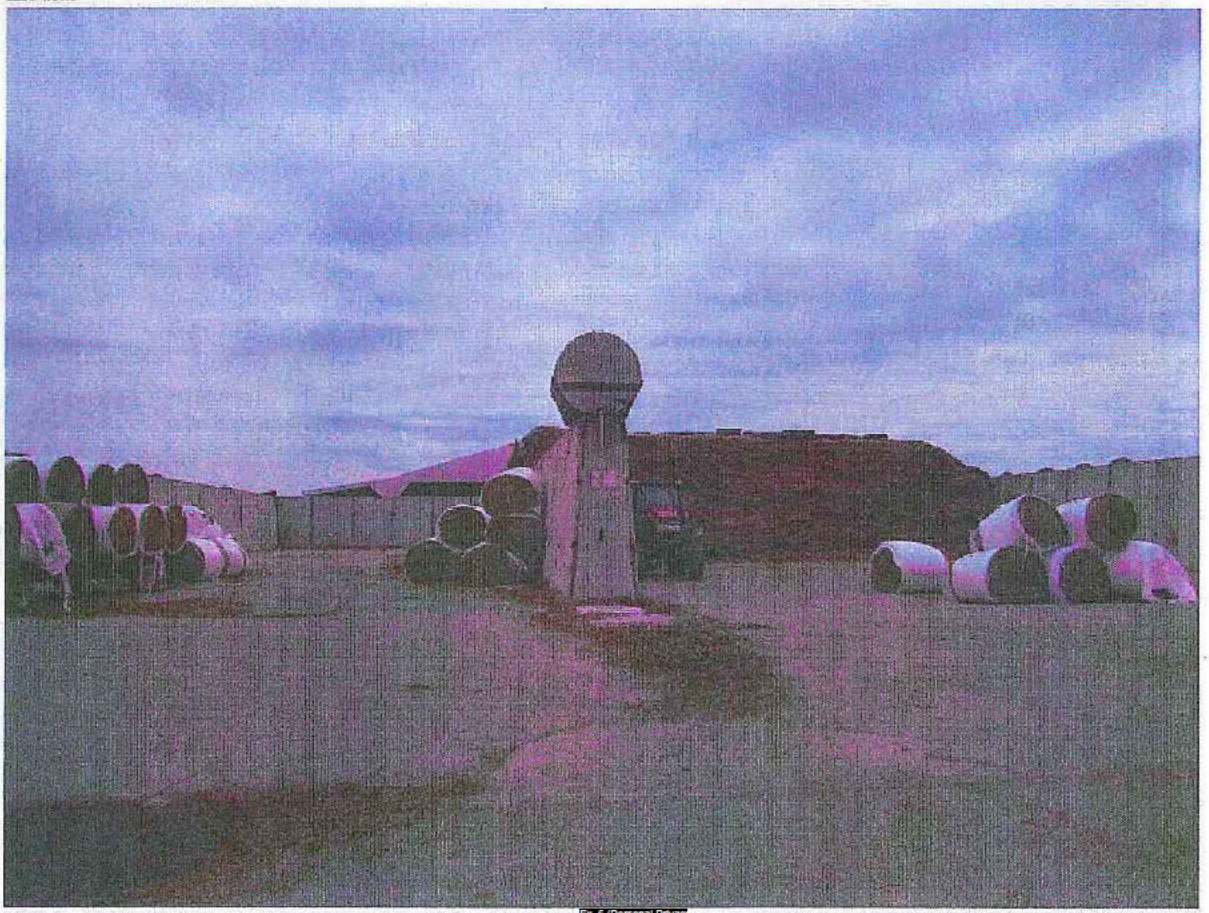
Photograph 7 of 58. View looking north between two barns at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



Photograph 8 of 58. South end of southeast cow barn looking easterly at point where silage leachate leaves bunker area and flows into field swale at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

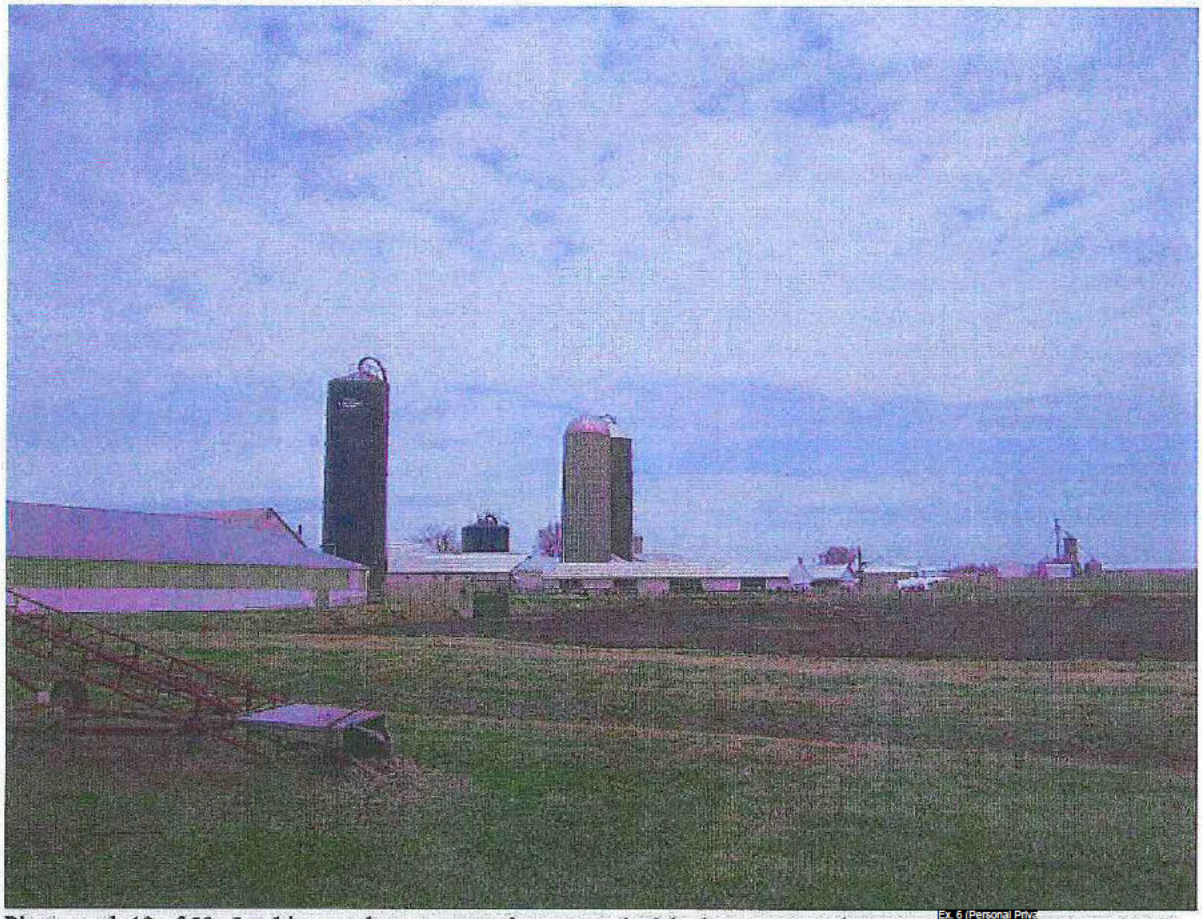


Photograph 9 of 58. Looking east along north wall of bunker, silage leachate in foreground flowing out of bunker into swale at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

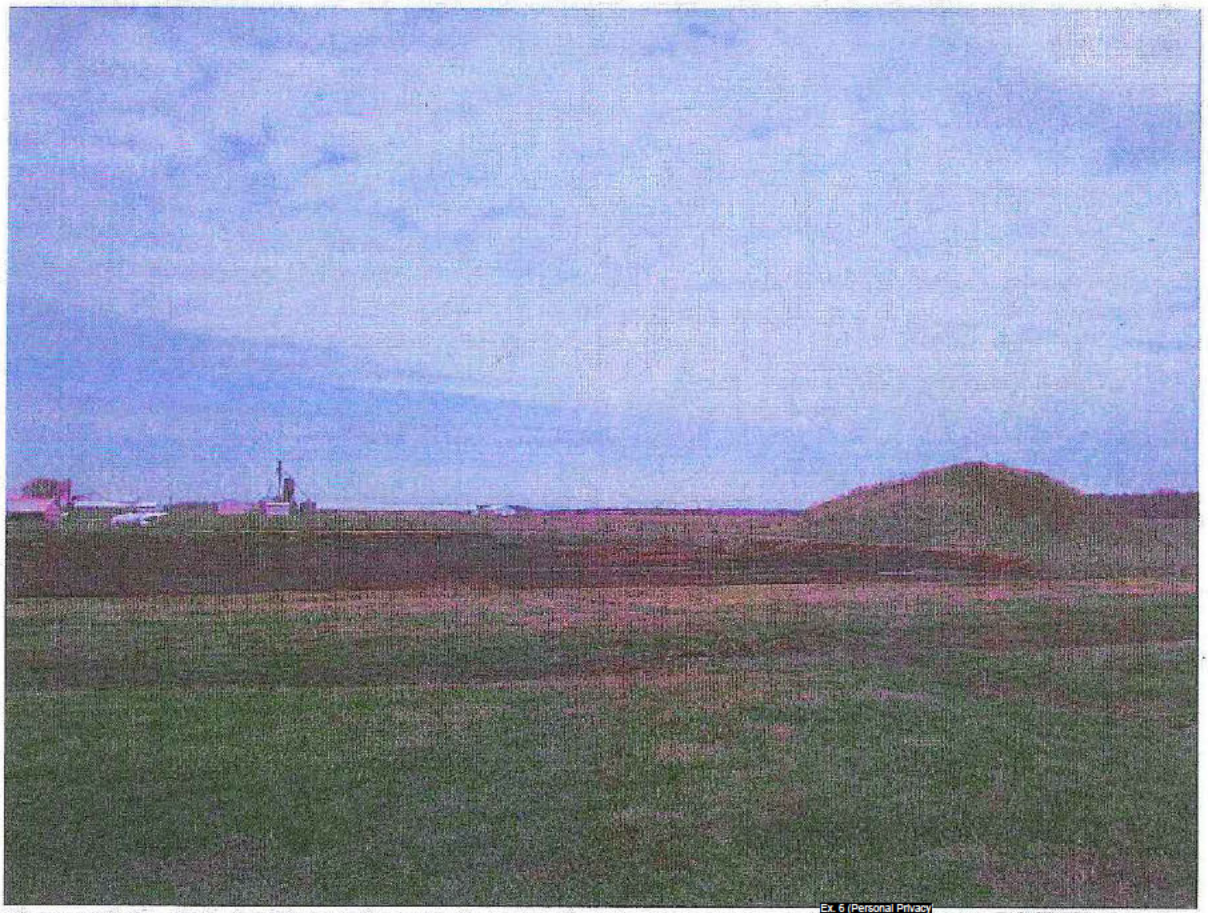


Photograph 10 of 58. Looking east into silage bunker at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 11 of 58. Looking northeast at area where silage leachate leaves bunker at southeast corner of the southeast cow barn at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



Photograph 12 of 58. Looking northwest across the west end of the large manure lagoon at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

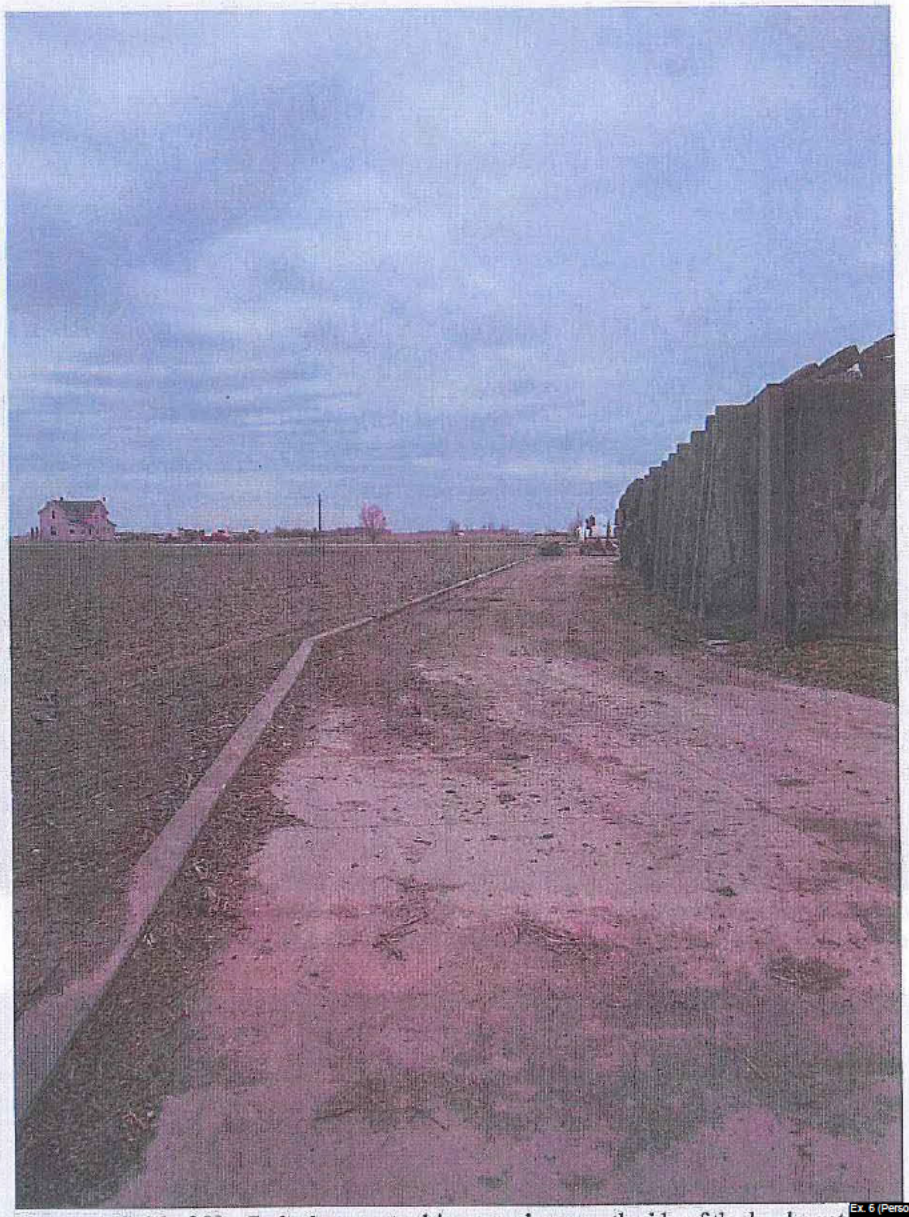


Photograph 13 of 58. Looking north across the east end of the manure lagoon at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

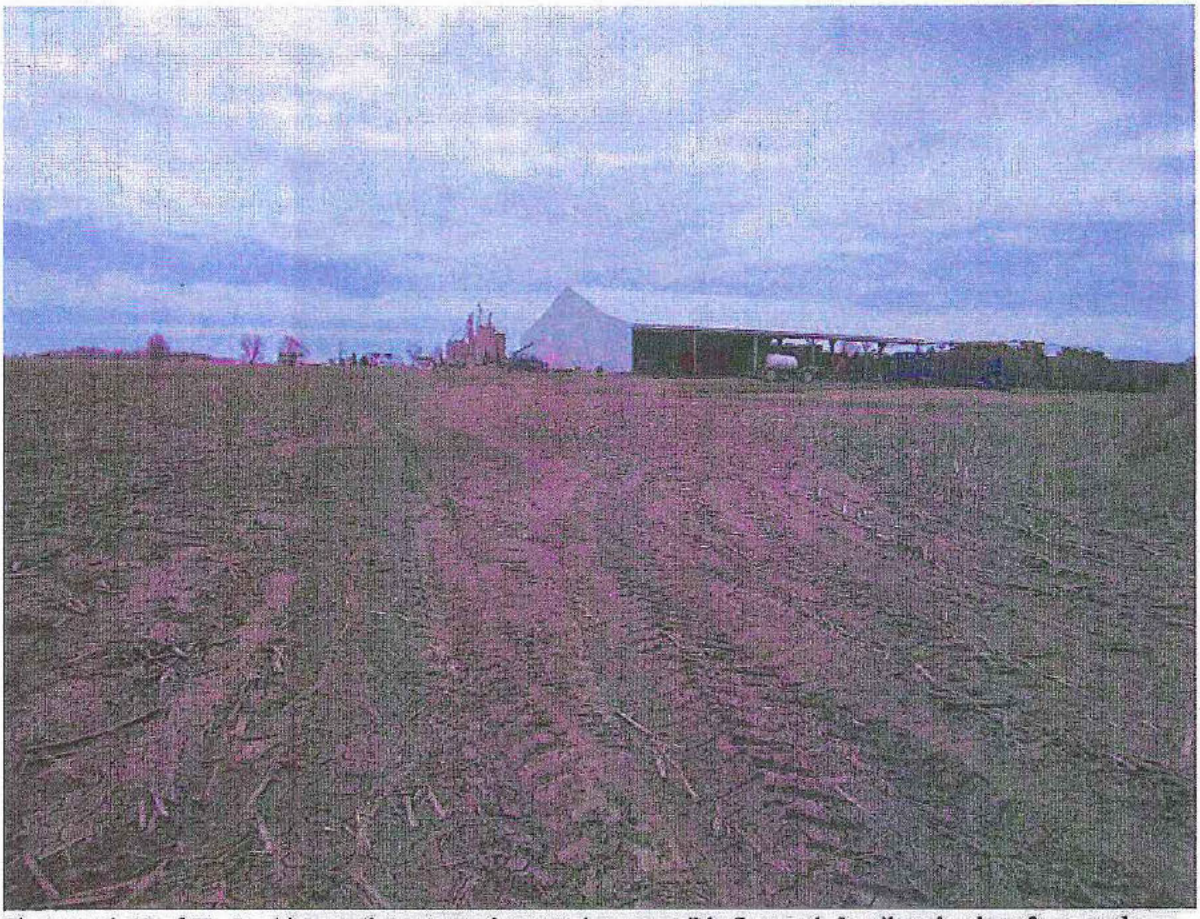
Photograph 14 of 58. Looking south between the east end of the bunker and a storage barn at [redacted] Dairy. Drainage flows into the field swale. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 15 of 58. View of swale that runs along the north side of the bunker to the east side of [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No., 212065043416, 04/02/14, digital media.

Photograph 16 of 58. Silage leachate along east wall of bunker which drains to the swale on the north side of the bunker at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



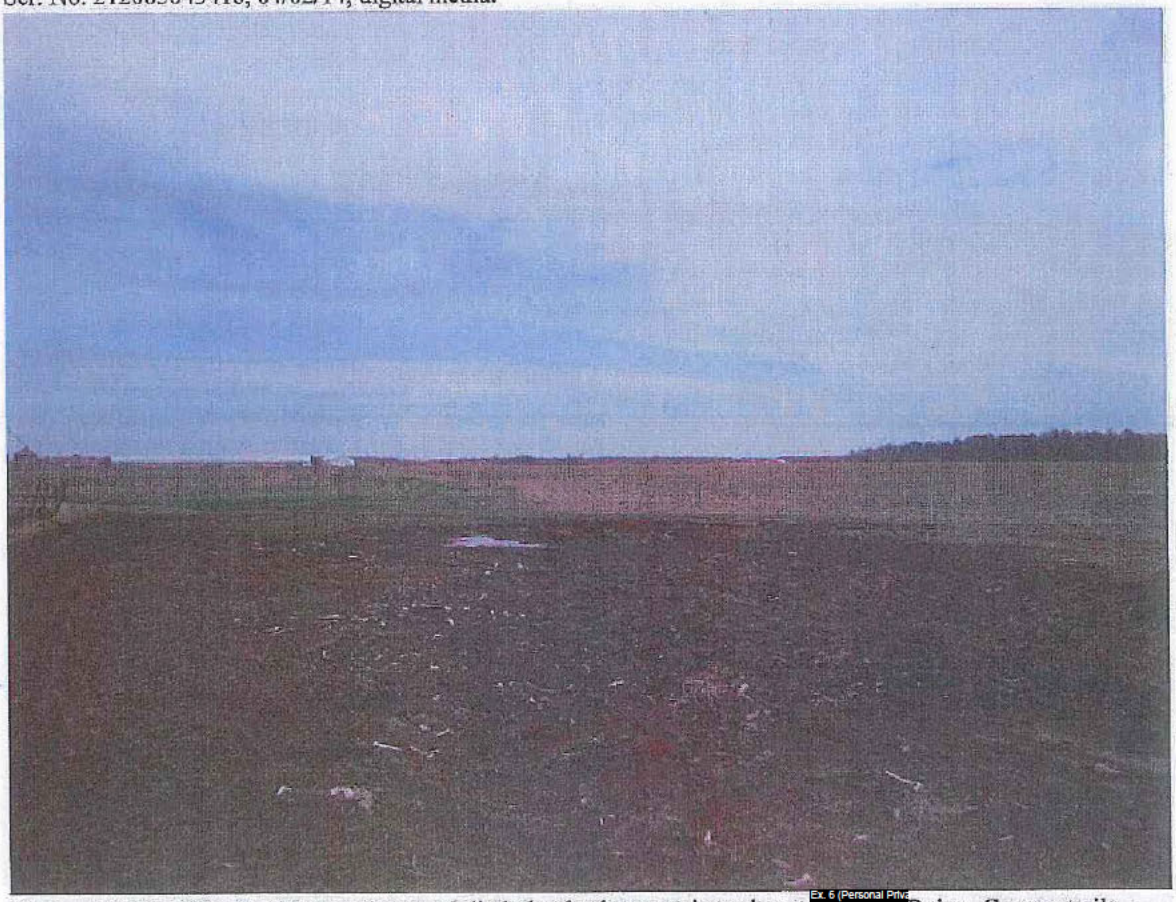
Photograph 17 of 58. Curbed concrete driveway along south side of the bunker at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



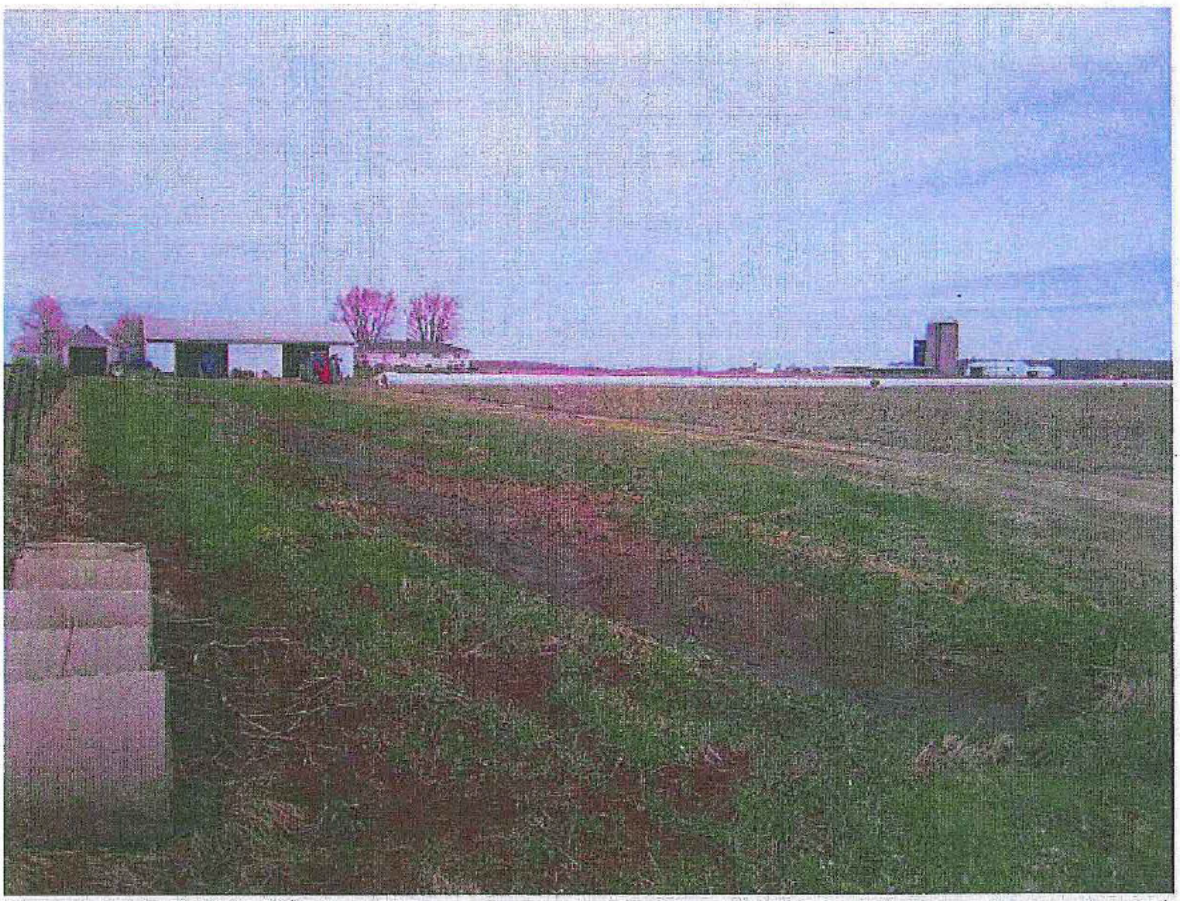
Photograph 18 of 58. Looking southeast toward storage barn, possible flow path for silage leachate from swale along north side of bunker at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 19 of 58. Looking northwest at compost pile at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 20 of 58. Looking northwest across trump lot at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



Photograph 21 of 58. Looking north toward ditch that leads to receiver pipe at [redacted] Dairy. Compost pile immediately behind photographer. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

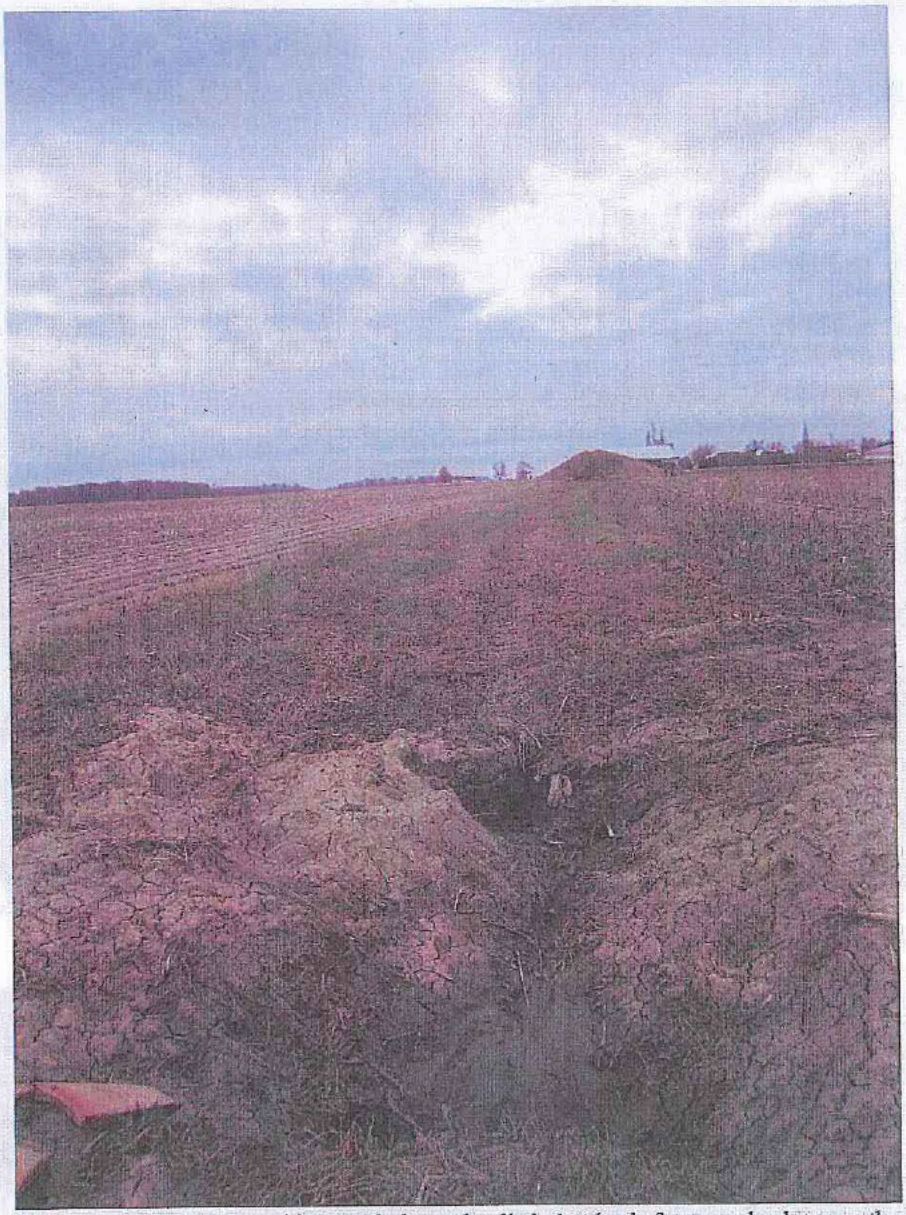


Photograph 22 of 58. Looking west along swale on north side of trump lot that receives manure from northwest corner of trump lot at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 23 of 58. Looking east at swale in above photograph after it crosses under the gravel drive, compost pile is to the right (outside of view) and the northeast corner of trump lot at [redacted] Dairy immediately behind photographer. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 24 of 58. Looking north at ditch which receives flow from swale in photographs 22 and 23 and from compost pile at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 25 of 58. Looking north near end of ditch (in photograph 24) toward receiver pipe (posts in center of picture) at [redacted] Dairy. It appeared there was a tile blow out recently. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.



Photograph 26 of 58. Looking south down the ditch that leads from swale along north side of trump lot and compost pile (in background in front of soil pile) at [redacted] Dairy. This is a close up view of possible tile blow out. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 27 of 58. Manure flowing from collection lane along west edge of trump lot into swale along north side of trump lot at [redacted] Dairy (looking south). AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.

Photograph 28 of 58. Manure in collection lane along the west edge of the northwest corner of the trump lot at [redacted] Dairy. AMV, Cannon PowerShot SD1400IS, Ser. No. 212065043416, 04/02/14, digital media.